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**THE FEDERAL AND STATE  
CONSTITUTIONS  
COLONIAL CHARTERS, AND OTHER  
ORGANIC LAWS  
OF THE  
STATES, TERRITORIES, AND  
COLONIES**

**NOW OR HERETOFORE FORMING  
THE UNITED STATES OF AMERICA**

Compiled and Edited  
under the Act of Congress of June 30, 1906

By

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**VOL. IV**

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# MICHIGAN<sup>a</sup>

For organic acts relating to the land now included within Michigan, printed in other parts of this work see:

Virginia Act of Cession, 1783 (Illinois, p. 955).  
Deed of Cession from Virginia, 1784 (Illinois, p. 957).  
Northwest Territorial Government, 1787 (Illinois, p. 957).  
Virginia Act of Ratification, 1788 (Illinois, p. 963).  
Northwest Territorial Government, 1789 (Illinois, p. 963).  
Territorial Government of Indiana, 1800 (Illinois, p. 964).  
Extension of Michigan Territory, 1834 (Iowa, p. 1111).  
Enabling Act for Illinois, 1818 (Illinois, p. 967).

## TERRITORIAL GOVERNMENT OF MICHIGAN—1805<sup>b</sup>

[EIGHTH CONGRESS, SECOND SESSION]

An Act to divide the Indiana Territory into two separate governments

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the thirtieth day of June next, all that part of the Indiana Territory which lies north of a line drawn east from the southerly bend, or extreme, of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States, shall, for the purpose of temporary government, constitute a separate Territory, and be called Michigan.

SEC. 2. *And be it further enacted,* That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory northwest of the river Ohio; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the territory northwest of the river Ohio;" and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the

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<sup>a</sup> The French explored the land near Detroit in 1670, and established a colony there in 1702. This was ceded to Great Britain, with all of the other French possessions east of the Mississippi River, by the treaty of Paris, February 10, 1763, and was annexed by royal proclamation to the British colony of Quebec. It was relinquished to the United States by Great Britain by the treaties of 1782-'83, although a British garrison was maintained until 1796.

<sup>b</sup> The boundaries of Michigan, as established by this act, were necessarily changed by the acts of Congress approved April 9, 1816; June 18, 1818; June 28, 1834, and April 20, 1836.

The act of 1818 extended the Territory westward to the Mississippi River, and the act of 1834 added the territory between the Mississippi River on the east and the Missouri and White Earth Rivers on the west. Michigan Territory then extended from Lakes Erie and Huron westward to the Missouri River, and from the States of Ohio, Indiana, Illinois, and Missouri northward to the British dominions.

territory of the United States northwest of the river Ohio by the said ordinance.

SEC. 3. *And be it further enacted*, That the officers for the said Territory, who, by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid, and the laws of the United States, have been provided and established for similar officers in the Indiana Territory; and the duties and emoluments of superintendent of Indian Affairs shall be united with those of governor.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the said Territory of Michigan, from and after the aforesaid thirtieth day of June next.

SEC. 5. *And be it further enacted*, That all suits, process, and proceeding which, on the thirtieth day of June next, shall be pending in the court of any county which shall be included within the said Territory of Michigan, and also all suits, process, and proceedings which, on the said thirtieth day of June next, shall be pending in the general court of the Indiana Territory in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Michigan aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

SEC. 6. *And be it further enacted*, That Detroit shall be the seat of government of the said Territory until Congress shall otherwise direct.

Approved, January 11, 1805.

## ENABLING ACT FOR MICHIGAN—1836 <sup>a</sup>

[TWENTY-FOURTH CONGRESS, FIRST SESSION]

An Act to establish the northern boundary-line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the northern

<sup>a</sup> For other statutes of an organic nature relating to Michigan subsequent to 1805 see an act to ascertain the boundaries of, act of May 20, 1812; to authorize the election of a delegate from, and to extend right of suffrage within, February 16, 1819; to provide for additional judge and to regulate the courts, January 30, 1823; to amend the earlier acts establishing government in, March 3, 1823; to provide for township and county government, and for popular election of additional members of the legislative council, February 5, 1825; to allow citizens to elect members of the legislative council, January 29, 1827; to authorize legislative council to take charge of school lands, May 24, 1828; to change time and place of holding county court, April 2, 1830; to prolong session of legislative council, March 2, 1833, to authorize change in election districts, March 2, 1833; to annex to Michigan territory west of Mississippi river and north of state of Missouri, June 28, 1834; to authorize extra session of legislative council, June 30, 1834; to increase salaries of judges, June 30, 1834; to provide for the due execution of the laws of the United States in, July 1, 1836.

boundary-line of the State of Ohio shall be established at, and shall be a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee (Miami) Bay, after that line, so drawn, shall intersect the eastern boundary-line of the State of Indiana; and from the said north cape of the said bay, northeast to the boundary-line between the United States and the province of Upper Canada, in Lake Erie; and thence with the said last-mentioned line, to its intersection with the western line of the State of Pennsylvania.

SEC. 2. *And be it further enacted*, That the constitution and State government which the people of Michigan have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed; and that the said State of Michigan shall be, and is hereby, declared to be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States, in all respects whatsoever: *Provided always*, and this admission is upon the express condition, That the said State shall consist of and have jurisdiction over all the territory included within the following boundaries, and over none other, to wit: Beginning at the point where the above-described northern boundary of the State of Ohio intersects the eastern boundary of the State of Indiana, and running thence with the said boundary-line of Ohio, as described in the first section of this act, until it intersects the boundary-line between the United States and Canada, in Lake Erie; thence with the said boundary-line between the United States and Canada, through the Detroit River, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence, in a direct line through Lake Superior, to the mouth of the Montreal River; thence, through the middle of the main channel of the said river Montreal, to the middle of the Lake of the Desert; thence, in a direct line, to the nearest headwater of the Menomonee River; thence, through the middle of that fork of the said river first touched by the said line, to the main channel of the said Menomonee River; thence, down the centre of the main channel of the same, to the centre of the most usual ship-channel of the Green Bay of Lake Michigan; thence, through the centre of the most usual ship-channel of the said bay, to the middle of Lake Michigan; thence, through the middle of Lake Michigan, to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary-line of the said State of Indiana to the northeast corner thereof; and thence south, with the east boundary-line of Indiana, to the place of beginning.

SEC. 3. *And be it further enacted*, That as a compliance with the fundamental condition of admission contained in the last preceding section of this act, the boundaries of the said State of Michigan, as in that section described, declared, and established, shall receive the assent of a convention of delegates elected by the people of said State for the sole purpose of giving the assent herein required; and, as soon as the assent herein required shall be given, the President of the United States shall announce the same by proclamation; and, thereupon, and without any further proceeding on the part of Congress, the admission of the said State into the Union, as one of the United States of America, on an equal footing with the original States in all respects whatever, shall be considered as complete, and the Senators and Rep-

representatives who have been elected by the said State as its representatives in the Congress of the United States shall be entitled to take their seats in the Senate and House of Representatives, respectively, without further delay.

SEC 4. *And be it further enacted*, That nothing in this act contained, or in the admission of the said State into the Union as one of the United States of America, upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, legislature, or other authorities of the said State of Michigan any authority or right to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State; but that the subject of the public lands, and the interests which may be given to the said State therein, shall be regulated by future action between Congress, on the part of the United States, and the said State, or the authorities thereof. And the said State of Michigan shall in no case, and under no pretence whatsoever, impose any tax, assessment, or imposition of any description upon any of the lands of the United States within its limits.

Approved, June 15, 1836.

#### SUPPLEMENTARY ACT FOR THE ADMISSION OF MICHIGAN—1836

An Act supplementary to the act entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in lieu of the propositions submitted to the Congress of the United States by an ordinance passed by the convention of delegates at Detroit, assembled for the purpose of making a constitution for the State of Michigan, which are hereby rejected; and that the following propositions be, and the same are hereby offered to the Legislature of the State of Michigan, for their acceptance or rejection, which if accepted, under the authority conferred on the said Legislature by the Convention which framed the constitution of the said State, shall be obligatory upon the United States.

*First*. That section numbered sixteen in every township of the public lands, and where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

*Second*. That the seventy-two sections of land set apart and reserved for the use and support of a university by an act of Congress approved on the twentieth day of May, eighteen hundred and twenty-six, entitled "An act concerning a seminary of learning in the Territory of Michigan," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the Legislature may prescribe; *And provided also*, That nothing herein contained shall be so construed as to impair or affect in any way the rights of any person or persons claiming any of said seventy-two sections of lands, under contract or grant from said university.

*Third.* That five entire sections of land, to be selected and located under the direction of the Legislature, in legal divisions of not less than one quarter section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the State for the purpose of completing the public buildings of the said State, or for the erection of public buildings at the seat of Government of the said State, as the Legislature may determine and direct.

*Fourth.* That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use, the same to be selected by the Legislature thereof, on or before the first of January, eighteen hundred and forty; and the same, when so selected, to be used on such terms, conditions, and regulations, as the Legislature of the said State shall direct: *Provided*, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided, also*, That the General Assembly shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

*Fifth.* That five per cent. of the net proceeds of the sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the first day of July, eighteen hundred and thirty-six, after deducting all the expenses incident to the same, shall be appropriated, for making public roads, and canals within the said State, as the Legislature may direct: *Provided*, That the five foregoing propositions herein offered, are on the condition that the Legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide, by an ordinance irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; (a) and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, whilst they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents respectively.

Approved, June 23, 1836.

## ACT FOR THE ADMISSION OF MICHIGAN—1837

[TWENTY-FOURTH CONGRESS, SECOND SESSION]

An Act to admit the State of Michigan into the Union upon an equal footing with the original States

Whereas, in pursuance of the act of Congress of June the fifteenth, eighteen hundred and thirty-six, entitled "An act to establish the northern boundary of the State of Ohio, and to provide for the



admission of the State of Michigan into the Union, upon the conditions therein expressed," a convention of delegates, elected by the people of the said State of Michigan, for the sole purpose of giving their assent to the boundaries of the said State of Michigan, as described, declared, and established in and by the said act, did, on the fifteenth of December, eighteen hundred and thirty-six, assent to the provisions of the said act: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Michigan shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury, in carrying into effect the thirteenth and fourteenth sections of the act of the twenty-third of June, eighteen hundred and thirty-six, entitled "An act to regulate the deposits of the public money," shall consider the State of Michigan as being one of the United States.

Approved, January 26, 1837.

### CONSTITUTION OF MICHIGAN—1835 \* a

In convention, begun at the city of Detroit, on the second Monday of May, in the year one thousand eight hundred and thirty-five:

We, the people of the Territory of Michigan, as established by the act of Congress of the eleventh of January, eighteen hundred and five, in conformity to the fifth article of the ordinance providing for the government of the territory of the United States northwest of the river Ohio, believing that the time has arrived when our present political condition ought to cease, and the right of self-government be asserted; and availing ourselves of that provision of the aforesaid ordinance of the Congress of the United States of the thirteenth day of July, one thousand seven hundred and eighty-seven, and the acts of Congress passed in accordance therewith, which entitled us to admission into the Union, upon a condition which has been fulfilled, do, by our delegates in convention assembled, mutually agree to form ourselves into a free and independent State, by the style and title of "The State of Michigan," and do ordain and establish the following constitution for the government of the same:

#### ARTICLE I

SECTION 1. All political power is inherent in the people.

SEC. 2. Government is instituted for the protection, security, and benefit of the people; and they have the right at all times to alter or reform the same, and to abolish one form of government and establish another, whenever the public good requires it.

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\* Verified by text in pp. xi-xxii, of "Report of the Proceedings and Debates" in Constitutional Convention of 1850; see note to Constitution of 1850.

<sup>a</sup> This constitution was framed by a convention called by the territorial legislative council, which met at Detroit May 11, 1835, and completed its labors June 29, 1835. It was submitted to the people and ratified November 2, 1835. President Jackson laid it before Congress in a special message, December 9, 1835.



SEC. 3. No man or set of men are entitled to exclusive or separate privileges.

SEC. 4. Every person has a right to worship Almighty God according to the dictates of his own conscience; and no person can of right be compelled to attend, erect, or support, against his will, any place of religious worship, or pay any tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 5. No money shall be drawn from the treasury for the benefit of religious societies, or theological or religious seminaries.

SEC. 6. The civil and political rights, privileges, and capacities of no individual shall be diminished or enlarged on account of his opinions or belief concerning matters of religion.

SEC. 7. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 8. The person, houses, papers, and possessions of every individual shall be secure from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them, nor without probable cause, supported by oath or affirmation.

SEC. 9. The right of trial by jury shall remain inviolate.

SEC. 10. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury of the vicinage; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defence; and in all civil cases, in which personal liberty may be involved, the trial by jury shall not be refused.

SEC. 11. No person shall be held to answer for a criminal offence, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or militia when in actual service in time of war or public danger.

SEC. 12. No person for the same offence shall be twice put in jeopardy of punishment; all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 13. Every person has a right to bear arms for the defence of himself and the State.

SEC. 14. The military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort;

no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 17. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

SEC. 18. Excessive bail shall not be required; excessive fines shall not be imposed; and cruel and unjust punishments shall not be inflicted.

SEC. 19. The property of no person shall be taken for public use, without just compensation therefor.

SEC. 20. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 21. All acts of the legislature, contrary to this or any other article of this constitution, shall be void.

## ARTICLE II

### ELECTORS

SECTION 1. In all elections, every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid, who may be a resident of the State at the time of the signing of this constitution, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district, county, or township in which he shall actually reside at the time of such election.

SEC. 2. All votes shall be given by ballot, except for such township officers as may, by law, be directed to be otherwise chosen.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

SEC. 5. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States, or of this State.

SEC. 6. No soldier, seaman, or marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

## ARTICLE III

### DIVISION OF THE POWERS OF GOVERNMENT

The powers of the government shall be divided into three distinct departments: the legislative, the executive, and the judicial; and one department shall never exercise the powers of another, except in such cases as are expressly provided for in this constitution.

## ARTICLE IV

## LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power shall be vested in a senate and house of representatives.

SEC. 2. The number of the members of the house of representatives shall never be less than forty-eight, nor more than one hundred; and the senate shall, at all times, equal in number one-third of the house of representatives, as nearly as may be.

SEC. 3. The legislature shall provide by law for an enumeration of the inhabitants of this State in the years eighteen hundred and thirty-seven and eighteen hundred and forty-five, and every ten years after the said last-mentioned time; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several counties and districts, according to the number of white inhabitants.

SEC. 4. The representatives shall be chosen annually on the first Monday of November, and on the following day, by the electors of the several counties or districts into which the State shall be divided for that purpose. Each organized county shall be entitled to at least one representative; but no county hereafter organized shall be entitled to a separate representative, until it shall have attained a population equal to the ratio of representation hereafter established.

SEC. 5. The senators shall be chosen for two years, at the same time and in the same manner as the representatives are required to be chosen. At the first session of the legislature under this constitution, they shall be divided by lot from their respective districts, as nearly as may be, into two equal classes; the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one-half thereof, as nearly as may be, shall be chosen annually thereafter.

SEC. 6. The State shall be divided, at each new apportionment, into a number of not less than four, nor more than eight, senatorial districts, to be always composed of contiguous territory; so that each district shall elect an equal number of senators annually, as nearly as may be; and no county shall be divided in the formation of such districts.

SEC. 7. Senators and representatives shall be citizens of the United States, and be qualified electors in the respective counties and districts which they represent; and a removal from their respective counties or districts shall be deemed a vacation of their seats.

SEC. 8. No person holding any office under the United States, or of this State, officers of the militia, justices of the peace, associate judges of the circuit and county courts, and postmasters excepted, shall be eligible to either house of the legislature.

SEC. 9. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 10. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and

may compel the attendance of absent members, in such manner and under such penalties as each house may provide. Each house shall choose its own officers.

SEC. 11. Each house shall determine the rules of its proceedings, and judge of the qualifications, elections, and returns of its own members; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the request of one-fifth of the members present, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the journal.

SEC. 13. In all elections by either or both houses, the votes shall be given *viva voce*; and all votes on nominations made to the senate shall be taken by yeas and nays, and published with the journals of its proceedings.

SEC. 14. The doors of each house shall be open; except when the public welfare shall require secrecy; neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may then be in session.

SEC. 15. Any bill may originate in either house of the legislature.

SEC. 16. Every bill passed by the legislature shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by whom it shall likewise be reconsidered; and if approved also by two-thirds of all the members present in that house, it shall become a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. And if any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 17. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except in cases of adjournment, shall be presented to the governor, and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

SEC. 18. The members of the legislature shall receive for their services a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the term for which the members of either house shall have been elected; and such compensation shall never exceed three dollars a day.

SEC. 19. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he is elected.

SEC. 20. The governor shall issue writs of election to fill such vacancies as may occur in the senate and house of representatives.

SEC. 21. The legislature shall meet on the first Monday in January in every year, and at no other period, unless otherwise directed by law, or provided for in this constitution.

SEC. 22. The style of the laws of this State shall be, "*Be it enacted by the senate and house of representatives of the State of Michigan.*"

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power shall be vested in a governor, who shall hold his office for two years; and a lieutenant-governor shall be chosen at the same time and for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor, who shall not have been five years a citizen of the United States, and a resident of this State two years next preceding the election.

SEC. 3. The governor and lieutenant-governor shall be elected by the electors at the times and places of choosing members of the legislature. The persons having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more have an equal and the highest number of votes for governor or lieutenant-governor, the legislature shall, by joint vote, choose one of the said persons, so having an equal and the highest number of votes, for governor or lieutenant-governor.

SEC. 4. The returns of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government, by the returning-officers, directed to the president of the senate, who shall open and publish them in the presence of the members of both houses.

SEC. 5. The governor shall be commander-in-chief of the militia, and of the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers of government, civil and military; and may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 7. He shall take care that the laws be faithfully executed.

SEC. 8. He shall have power to convene the legislature on extraordinary occasions. He shall communicate, by message, to the legislature, at every session, the condition of the State, and recommend such matters to them as he shall deem expedient.

SEC. 9. He shall have power to adjourn the legislature to such time as he may think proper, in case of a disagreement between the two houses with respect to the time of adjournment, but not to a period beyond the next annual meeting.

SEC. 10. He may direct the legislature to meet at some other place than the seat of government, if that shall become, after its adjournment, dangerous from a common enemy or a contagious disease.



SEC. 11. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

SEC. 12. When any office, the appointment to which is vested in the governor and senate, or in the legislature, becomes vacant during the recess of the legislature, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the succeeding session of the legislature.

SEC. 13. In case of the impeachment of the governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the lieutenant-governor until such disability shall cease, or the vacancy be filled.

SEC. 14. If, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or be absent from the State, the president of the senate *pro tempore* shall act as governor until the vacancy be filled.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be president of the senate; in committee of the whole, he may debate on all questions; and, when there is an equal division, he shall give the casting vote.

SEC. 16. No member of Congress, nor any other person holding office under the United States, or this State, shall execute the office of governor.

SEC. 17. Whenever the office of governor or lieutenant-governor becomes vacant, the person exercising the powers of governor for the time being shall give notice thereof, and the electors shall, at the next succeeding annual election for members of the legislature, choose a person to fill such vacancy.

SEC. 18. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he has been elected.

SEC. 19. The lieutenant-governor, except when acting as governor, and the president of the senate *pro tempore*, shall each receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 20. A great seal for the State shall be provided by the governor, which shall contain the device and inscriptions represented and described in the papers relating thereto, signed by the president of the convention, and deposited in the office of the secretary of the territory. It shall be kept by the secretary of state; and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Michigan.

## ARTICLE VI

### JUDICIAL DEPARTMENT

SECTION 1. The judicial power shall be vested in one supreme court, and in such other courts as the legislature may from time to time establish.

SEC. 2. The judges of the supreme court shall hold their offices for the term of seven years; they shall be nominated and, by and with the advice and consent of the senate, appointed by the governor.



They shall receive an adequate compensation, which shall not be diminished during their continuance in office. But they shall receive no fees nor perquisites of office, nor hold any other office or profit or trust under the authority of this State, or of the United States.

SEC. 3. A court of probate shall be established in each of the organized counties.

SEC. 4. Judges of all county courts, associate judges of circuit courts, and judges of probate shall be elected by the qualified electors of the county in which they reside, and shall hold their offices for four years.

SEC. 5. The supreme court shall appoint their clerk or clerks; and the electors of each county shall elect a clerk, to be denominated a county clerk, who shall hold his office for the term of two years, and shall perform the duties of clerk to all the courts of record to be held in each county, except the supreme court and court of probate.

SEC. 6. Each township may elect four justices of the peace, who shall hold their offices for four years; and whose powers and duties shall be defined and regulated by law. At their first election they shall be classed and divided by lot into numbers one, two, three, and four, to be determined in such manner as shall be prescribed by law, so that one justice shall be annually elected in each township thereafter. A removal of any justice from the township in which he was elected shall vacate his office. In all incorporated towns, or cities, it shall be competent for the legislature to increase the number of justices.

SEC. 7. The style of all process shall be, "In the name of the people of the State of Michigan;" and all indictments shall conclude, "Against the peace and dignity of the same."

## ARTICLE VII

### CERTAIN STATE AND COUNTY OFFICERS

SECTION 1. There shall be a secretary of state, who shall hold his office for two years, and who shall be appointed by the governor, by and with the advice and consent of the senate. He shall keep a fair record of the official acts of the legislative and executive departments of the government; and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law.

SEC. 2. A State treasurer shall be appointed by a joint vote of the two houses of the legislature, and shall hold his office for the term of two years.

SEC. 3. There shall be an auditor-general and an attorney-general for the State, and a prosecuting attorney for each of the respective counties, who shall hold their offices for two years, and who shall be appointed by the governor, by and with the advice and consent of the senate, and whose powers and duties shall be prescribed by law.

SEC. 4. There shall be a sheriff, a county treasurer, and one or more coroners, a register of deeds, and a county surveyor, chosen by the electors in each of the several counties, once in every two years,

and as often as vacancies shall happen. The sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

## ARTICLE VIII

### IMPEACHMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The house of representatives shall have the sole power of impeaching all civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall be necessary to direct an impeachment.

SEC. 2. All impeachments shall be tried by the senate. When the governor or lieutenant-governor shall be tried, the chief justice of the supreme court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try and determine the charge in question according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office; but the party convicted shall be liable to indictment and punishment according to law.

SEC. 3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the courts, the governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause or causes for which such removal may be required shall be stated at length in the address.

SEC. 4. The legislature shall provide by law for the removal of justices of the peace, and other county and township officers, in such manner and for such cause as to them shall seem just and proper.

## ARTICLE IX

### MILITIA

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

SEC. 2. The legislature shall provide for the efficient discipline of the officers, commissioned and non-commissioned, and musicians, and may provide by law for the organization and discipline of volunteer companies.

SEC. 3. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

SEC. 4. The governor shall have power to call forth the militia, to execute the laws of the State, to suppress insurrections, and repel invasions.

## ARTICLE X

## EDUCATION

SECTION 1. The governor shall nominate and, by and with the advice and consent of the legislature in joint vote, shall appoint a superintendent of public instruction, who shall hold his office for two years, and whose duties shall be prescribed by law.

SEC. 2. The legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, for the support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund, the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of schools throughout the State.

SEC. 3. The legislature shall provide for a system of common schools, by which a school shall be kept up and supported in each school-district at least three months in every year; and any school-district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

SEC. 4. As soon as the circumstances of the State will permit, the legislature shall provide for the establishment of libraries; one at least in each township; and the money which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines assessed in the several counties for any breach of the penal laws, shall be exclusively applied to the support of said libraries.

SEC. 5. The legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this State for the support of a university, and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund for the support of said university, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

## ARTICLE XI

## PROHIBITION OF SLAVERY

Neither slavery nor involuntary servitude shall ever be introduced into this State, except for the punishment of crimes of which the party shall have been duly convicted.

## ARTICLE XII

## MISCELLANEOUS PROVISIONS

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly

and as often as vacancies shall happen. The sheriff shall hold no other office, and shall not be capable of holding the office of sheriff longer than four in any term of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant; but the county shall never be made responsible for the acts of the sheriff.

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SEC. 3. For any reasonable cause, which shall not be sufficient ground for the impeachment of the judges of any of the courts, the governor shall remove any of them on the address of two-thirds of each branch of the legislature; but the cause or causes for which such removal may be required shall be stated at length in the address.

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SEC. 5. The legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this State for the support of a university, and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund for the support of said university, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms of such grant. And it shall be the duty of the legislature, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

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## MISCELLANEOUS PROVISIONS

SECTION 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly

swear [or affirm, as the case may be] that I will support the Constitution of the United States and the constitution of this State, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 2. The legislature shall pass no act of incorporation, unless with the assent of at least two-thirds of each house.

SEC. 3. Internal improvement shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as may be, to make provision by law for ascertaining the proper objects of improvement in relation to roads, canals, and navigable waters; and it shall also be their duty to provide by law for an equal, systematic, and economical application of the funds which may be appropriated to these objects.

SEC. 4. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

SEC. 5. Divorces shall not be granted by the legislature, but the legislature may by law authorize the higher courts to grant them, under such restrictions as they may deem expedient.

SEC. 6. No lottery shall be authorized by this State, nor shall the sale of lottery-tickets be allowed.

SEC. 7. No county now organized by law shall ever be reduced, by the organization of new counties, to less than four hundred square miles.

SEC. 8. The governor, secretary of state, treasurer, and auditor-general shall keep their offices at the seat of government.

SEC. 9. The seat of government for this State shall be at Detroit, or at such other place or places as may be prescribed by law, until the year eighteen hundred and forty-seven, when it shall be permanently located by the legislature.

SEC. 10. The first governor and lieutenant-governor shall hold their offices until the first Monday of January, eighteen hundred and thirty-eight, and until others shall be elected and qualified, and thereafter they shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 11. When a vacancy shall happen, occasioned by the death, resignation, or removal from office of any person holding office under this State, the successor thereto shall hold his office for the period which his predecessor had to serve, and no longer, unless again chosen or reappointed.

### ARTICLE XIII

#### MODE OF AMENDING AND REVISING THE CONSTITUTION

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be pub-



lished for three months previous to the time of making such choice. And if in the legislature next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

SEC. 2. And if at any time two-thirds of the senate and house of representatives shall think it necessary to revise or change this entire constitution, they shall recommend to the electors at the next election for members of the legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election have voted in favor of calling a convention, the legislature shall at its next session provide by law for calling a convention to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the legislature.

#### SCHEDULE

SECTION 1. That no inconvenience may arise from a change of the territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, contracts, claims, and rights of individuals and of bodies-corporate shall continue as if no change had taken place in this government; and all process which may, before the organization of the judicial department under this constitution, be issued under the authority of the Territory of Michigan, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Michigan, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the legislature.

SEC. 3. All fines, penalties, forfeitures, and escheats accruing to the Territory of Michigan shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to and may be prosecuted in the name of the State. And all bonds executed to the governor of this Territory, or to any other officer in his official capacity, shall pass over to the governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

SEC. 5. All officers, civil and military, now holding their offices and appointments in this Territory under the authority of the United States, or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution.



SEC. 6. The first election for governor, lieutenant-governor, members of the State legislature, and a Representative in the Congress of the United States, shall be held on the first Monday in October next, and on the succeeding day. And the president of the convention shall issue writs to the sheriffs of the several counties or districts, or, in case of vacancy, to the coroners, requiring them to cause such election to be held on the days aforesaid, in their respective counties or districts. The election shall be conducted in the manner prescribed, and by the township officers designated as inspectors of elections, and the returns made as required by the existing laws of the Territory, or by this constitution: *Provided, however,* That the returns of the several townships in the district composed of the unorganized counties of Ottawa, Ionia, Kent, and Clinton shall be made to the clerk of the township of Kent in said district, and the said township clerk shall perform the same duties as by the existing laws of the Territory devolve upon the clerks of the several counties in similar cases.

SEC. 7. The first meeting of the legislature shall be at the city of Detroit, on the first Monday in November next, with power to adjourn to any other place.

SEC. 8. All county and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

SEC. 9. This constitution shall be submitted, at the election to be held on the first Monday in October next, and on the succeeding day, for ratification or rejection, to the electors qualified by this constitution to vote at all elections; and if the same be ratified by the said electors, the same shall become the constitution of the State of Michigan. At the election aforesaid, on such of the ballots as are for the said constitution, shall be written or printed the word "Yes," and on those which are against the ratification of said constitution, the word "No." And the returns of the votes on the question of ratification or rejection of said constitution shall be made to the president of this convention at any time before the first Monday in November next, and a digest of the same communicated by him to the senate and house of representatives on that day.

SEC. 10. And if this constitution shall be ratified by the people of Michigan, the president of this convention shall, immediately after the same shall be ascertained, cause a fair copy thereof, together with an authenticated copy of the act of the legislative council, entitled "An act to enable the people of Michigan to form a constitution and State government," approved January 26, 1835, providing for the calling of this convention, and also a copy of so much of the last census of this Territory as exhibits the number of the free inhabitants of that part thereof which is comprised within the limits in said constitution defined as the boundaries of the proposed State of Michigan, to be forwarded to the President of the United States, together with an expression of the decided opinion of this convention that the number of the free inhabitants of said proposed State now exceeds the number requisite to constitute two congressional districts, and the respectful request of this convention, in behalf of the people of Michigan, that all said matters may be by him laid before the Congress of the United States at their next session.

SEC. 11. In case of the failure of the president of this convention to perform the duties prescribed by this constitution, by reason of his absence, death, or from any other cause, said duties shall be performed by the secretaries of this convention.

SEC. 12. Until the first enumeration shall be made, as directed by this constitution, the county of Wayne shall be entitled to eight representatives; the county of Monroe to four representatives; the county of Washtenaw to seven representatives; the county of Saint Clair to one representative; the county of Saint Joseph to two representatives; the county of Berrien to one representative; the county of Calhoun to one representative; the county of Jackson to one representative; the county of Cass to two representatives; the county of Oakland to six representatives; the county of Macomb to three representatives; the county of Lenawee to four representatives; the county of Kalamazoo, and the unorganized counties of Allegan and Barry, to two representatives; the county of Branch to one representative; the county of Hillsdale to one representative; the county of Lapeer to one representative; the county of Saginaw, and the unorganized counties of Genesee and Shiawasse, to one representative; the county of Michilimackinac to one representative; the county of Chippewa to one representative; and the unorganized counties of Ottawa, Kent, Ionia, and Clinton to one representative.

And for the election of senators the State shall be divided into five districts, and the apportionment shall be as follows: The county of Wayne shall compose the first district, and elect three senators; the counties of Monroe and Lewanee shall compose the second district, and elect three senators; the counties of Hillsdale, Branch, Saint Joseph, Cass, Berrien, Kalamazoo, and Calhoun shall compose the third district, and elect three senators; the counties of Washtenaw and Jackson shall compose the fourth district, and elect three senators; and the counties of Oakland, Lapeer, Saginaw, Macomb, Saint Clair, Michilimackinac, and Chippewa shall compose the fifth district, and elect four senators.

Any country attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation in the legislature.

JOHN BIDDLE, *President.*

#### ORDINANCE

*Be it ordained by the convention assembled to form a constitution for the State of Michigan, in behalf and by authority of the people of said State, That the following propositions be submitted to the Congress of the United States, which, if assented to by that body, shall be obligatory on this State:*

1. Section numbered sixteen in every surveyed township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

2. The seventy-two sections of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twentieth day of May, eighteen hundred and twenty-six, entitled "An act concerning a seminary of learning in the Territory of Michigan," shall, together with such further quantities as may

be agreed upon by Congress, be conveyed to the State, and shall be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

3. Four entire sections of land, to be selected under the direction of the legislature, from any of the unappropriated lands belonging to the United States, shall be granted to the State for its use in establishing a seat of government.

**AMENDMENT TO THE CONSTITUTION OF 1835 \***

(Ratified 1839)

ART. II. SEC. 1. Strike out the words "district, county, or township," and substitute in the place thereof "township or ward."

(Ratified 1843)

That the constitution of this State be so amended that every law authorizing the borrowing of money or the issuing of State stocks, whereby a debt shall be created on the credit of the State, shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which shall be simply and specifically stated, and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the authority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the legislature, the judicial and State officers, for suppressing insurrection, repelling invasion, or defending the State in time of war.

(Ratified 1844)

ART. IV. SEC. 4. Strike out the words "On the first Monday in November and on the following days," and insert the words "On the first Tuesday," so that said section will read: "The representatives shall be chosen annually on the first Tuesday of November, by the electors of the several counties or districts into which the State shall be divided for that purpose."

**CONSTITUTION OF THE STATE OF MICHIGAN—1850 \***

The People of the State of Michigan do ordain this Constitution

**ARTICLE I**

**BOUNDARIES**

The state of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to-wit: Commencing at a point on the eastern boundary line of the state of

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\* Verified by "The constitution of the State of Michigan. Compiled and published under the supervision of George A. Prescott, Secretary of State. September, 1906. Lansing, Michigan: Wynkoop Hallenbeck Crawford Co., State Printers. 1906." 54 pp. See Appendix to present work.

<sup>a</sup> See pp. xi-xxii of "Report of the Proceedings and Debates," Constitutional Convention, 1850.

Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee bay shall intersect the same—said point being the northwest corner of the state of Ohio, as established by act of congress, entitled “An act to establish the northern boundary line of the state of Ohio, and to provide for the admission of the state of Michigan into the union upon the conditions therein expressed,” approved June fifteenth, one thousand eight hundred and thirty-six, thence with the said boundary line of the state of Ohio, till it intersects the boundary line between the United States and Canada in Lake Erie, thence with said boundary line between the United States and Canada through the Detroit river, Lake Huron and Lake Superior to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal river; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the center of the channel between Middle and South islands in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore and down the river Brule to the main channel of the Menominee river; thence down the center of the main channel of the same to the center of the most usual ship channel of the Green Bay of Lake Michigan; thence through the center of the most usual ship channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the state of Indiana, as that line was established by the act of congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said state of Indiana to the northeast corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

## ARTICLE II

### SEAT OF GOVERNMENT

The seat of government shall be at Lansing, where it is now established.

## ARTICLE III

### DIVISION OF THE POWERS OF GOVERNMENT

SECTION 1. The powers of government are divided into three departments: The legislative, executive and judicial.

SEC. 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this constitution.

## ARTICLE IV

### LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power is vested in a senate and house of representatives.

SEC. 2. The senate shall consist of thirty-two members. Senators shall be elected for two years and by single districts. Such districts shall be numbered from one to thirty-two inclusive, each of which

shall choose one senator. No county shall be divided in the formation of senate districts, except such county shall be equitably entitled to two or more senators.

<sup>a</sup> SEC. 3. The house of representatives shall consist of not less than sixty-four nor more than one hundred members. Representatives shall be chosen for two years and by single districts. Each representative district shall contain, as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized or are members of any tribe, and shall consist of convenient and contiguous territory. But no township or city shall be divided in the formation of a representative district. When any township or city shall contain a population which entitles it to more than one representative, then such township or city shall elect by general ticket the number of representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate representative when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one representative the board of supervisors shall assemble at such time and place as the legislature shall prescribe and divide the same into representative districts, equal to the number of representatives to which such county is entitled by law, and shall cause to be filed in the offices of the secretary of state and clerk of such county, a description of such representative districts, specifying the number of each district and population thereof, according to the last preceding enumeration.

<sup>a</sup> SEC. 4. The legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the legislature shall rearrange the senate districts and apportion anew the representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent who are not civilized or are members of any tribe. Each apportionment and the division into representative districts by any board of supervisors shall remain unaltered until the return of another enumeration.

SEC. 5. Senators and representatives shall be citizens of the United States and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

SEC. 6. No person holding any office under the United States [or this state] <sup>b</sup> or any county office, except notaries public, officers of the militia and officers elected by townships, shall be eligible to or have a seat in either house of the legislature, and all votes given for any such person shall be void.

SEC. 7. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either house.

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<sup>a</sup> As amended by joint resolution No. 42, laws of 1869, vol. 1, p. 425: ratified election of 1870.

<sup>b</sup> The bracketed words are omitted in the engrossed copy.



SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 9. Each house shall choose its own officers, determine the rules of its proceedings and judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election; the reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

SEC. 10. Each house shall keep a journal of its proceedings and publish the same except such parts as may require secrecy. The yeas and nays of the members of either house, on any question, shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

SEC. 11. In all elections by either house or in joint convention the votes shall be given *viva voce*. All votes on nominations to the senate shall be taken by yeas and nays, and published with the journal of its proceedings.

SEC. 12. The doors of each house shall be open unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the legislature may then be in session.

SEC. 13. Bills may originate in either house of the legislature.

SEC. 14. Every bill and concurrent resolution, except of adjournment, passed by the legislature, shall be presented to the governor before it becomes a law. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration if two-thirds of the members elected agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law. The governor may approve, sign and file in the office of the secretary of state, within five days after the adjournment of the legislature, any act passed during the last five days of the session, and the same shall become a law.

<sup>a</sup> SEC. 15. The compensation of the members of the legislature shall be three dollars per day for actual attendance and when absent

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<sup>a</sup>As amended by joint resolution No. 18, laws of 1859, p. 1105; ratified election of 1860.

on account of sickness, but the legislature may allow extra compensation to the members from the territory of the upper peninsula, not exceeding two dollars per day during a session. When convened in extra session their compensation shall be three dollars a day for the first twenty days and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents and no more for every mile actually traveled, in going to and returning from the place of meeting, on the usually traveled route, and for stationery and newspapers not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals and documents of the legislature of which he was a member, but shall not receive, at the expense of the state, books, newspapers or other perquisites of office not expressly authorized by this constitution.

SEC. 16. The legislature may provide by law for the payment of postage on all mailable matter received by its members and officers during the sessions of the legislature, but not on any sent or mailed by them.

SEC. 17. The president of the senate and the speaker of the house of representatives shall be entitled to the same per diem compensation and mileage as members of the legislature, and no more.

SEC. 18. No person elected a member of the legislature shall receive any civil appointment within this state, or to the senate of the United States, from the governor, the governor and senate, from the legislature, or any other state authority, during the term for which he is elected. All such appointments and all votes given for any person so elected for any such office or appointment shall be void. No member of the legislature shall be interested, directly or indirectly, in any contract with the state or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

SEC. 19. Every bill and joint resolution shall be read three times in each house before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills the vote shall be by ayes and nays and entered on the journal.

SEC. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

SEC. 21. The legislature shall not grant nor authorize extra compensation to any public officer, agent or contractor, after the service has been rendered or the contract entered into.

SEC. 22. The legislature shall provide by law that the furnishing of fuel and stationery for the use of the state, the printing and binding the laws and journals, all blanks, paper and printing for the executive departments and all other printing ordered by the legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The legislature shall prescribe by law the manner in which the state printing shall be executed, and the accounts rendered therefor; and shall prohibit all charges for constructive labor. They shall not rescind



nor alter such contract, nor release the person or persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the legislature nor officer of the state shall be interested directly or indirectly in any such contract.

SEC. 23. The legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways or any street in any city or village, or in any recorded town plat.

SEC. 24. The legislature may authorize the employment of a chaplain for the state prison; but no money shall be appropriated for the payment of any religious services in either house of the legislature.

SEC. 25. No law shall be revised, altered or amended by reference to its title only; but the act revised and the section or sections of the act altered or amended shall be re-enacted and published at length.

SEC. 26. Divorces shall not be granted by the legislature.

SEC. 27. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

<sup>a</sup> SEC. 28. Repealed.

SEC. 29. In case of a contested election, the person only shall receive from the state per diem compensation and mileage who is declared to be entitled to a seat by the house in which the contest takes place.

SEC. 30. No collector, holder nor disburser of public moneys shall have a seat in the legislature, or be eligible to any office of trust or profit under this state, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

SEC. 31. The legislature shall not audit nor allow any private claim ~~or~~ account.

SEC. 32. The legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

<sup>b</sup> SEC. 33. The legislature shall meet at seat of government on the first Wednesday in January, in the year one thousand eight hundred and sixty-one, and on the first Wednesday of January in every second year thereafter, and at no other place or time unless as provided in the constitution of the state, and shall adjourn without day at such time as the legislature shall fix by concurrent resolution.

SEC. 34. The election of senators and representatives, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

<sup>c</sup> SEC. 35. The legislature shall not establish a state paper.

SEC. 36. The legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

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<sup>a</sup> Amended by joint resolution No. 18, laws of 1859, p. 1105; ratified election of 1860. By amendment proposed by the legislature of 1903, joint resolution No. 2, and approved by the people at the November election, 1904, this section was repealed.

<sup>b</sup> As amended by joint resolution No. 18, laws of 1859, p. 1105; ratified election of 1860.

<sup>c</sup> As amended by joint resolution No. 9, laws of 1901, p. 389; ratified election of 1902.

SEC. 37. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this constitution.

SEC. 38. The legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative and administrative character as they may deem proper.

SEC. 39. The legislature shall pass no law to prevent any person from worshiping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 40. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the state be appropriated for any such purposes.

SEC. 41. The legislature shall not diminish or enlarge the civil or political rights, privileges and capacities of any person on account of his opinion or belief concerning matters of religion.

SEC. 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right.

SEC. 43. The legislature shall pass no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

SEC. 44. The privilege of the writ of *habeas corpus* remains and shall not be suspended by the legislature, except in case of rebellion or invasion the public safety require it.

SEC. 45. The assent of two-thirds of the members elected to each house of the legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

SEC. 46. The legislature may authorize a trial by a jury of a less number than twelve men.

<sup>a</sup> SEC. 47. The legislature may, by law, provide for the indeterminate sentences so called, as a punishment for crime, on conviction thereof, and for the detention and release of persons imprisoned or detained on said sentences.

SEC. 48. The style of the laws shall be, "The People of the State of Michigan enact."

<sup>b</sup> SEC. 49. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges and culverts by counties and townships, and may authorize counties to take charge and control of any highways within their limits for such purposes; and may modify, change or abolish the powers and duties of township commissioners and overseers of highways. But the tax raised in any one year shall not exceed two dollars upon each one thousand

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<sup>a</sup> By amendment proposed by the legislature of 1875, joint resolution No. 21, and approved by the people at the November election of 1876, section 47, article IV, prohibiting the license of the sale of intoxicating liquors, was stricken out. By amendment proposed by the legislature of 1901, joint resolution No. 11, and ratified at the November election of 1902, the section as above was inserted.

<sup>b</sup> As amended by joint resolution No. 5, public acts of 1899, ratified April election 1899.

dollars valuation, according to the assessment roll of the county for the preceding year. The legislature may also prescribe the powers and duties of boards of supervisors in relation to highways, bridges and culverts, and may provide for one or more county road commissioners, to be elected by the people, or appointed, with such powers and duties as may be prescribed by law.

No county shall incur any indebtedness for any purposes in excess of three per cent of the valuation, according to the last assessment roll, and no such indebtedness beyond one-half of one per cent of such valuation shall be incurred, unless authorized by a majority of the electors of said county voting thereon: *Provided*, That any county road system provided by law shall not go into operation in any county until the electors of said county, by a majority vote, have declared in favor of adopting the county road system.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The executive power is vested in a governor who shall hold his office for two years. A lieutenant governor shall be chosen for the same term.

SEC. 2. No person shall be eligible to the office of governor or lieutenant governor, who has not been five years a citizen of the United States and a resident of this state two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

SEC. 3. The governor and lieutenant governor shall be elected at the times and places of choosing the members of the legislature. The person having the highest number of votes for governor or lieutenant governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for governor or lieutenant governor, the legislature shall, by joint vote, choose one of such persons.

SEC. 4. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections and to repel invasions.

SEC. 5. He shall transact all necessary business with officers of government, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 6. He shall take care that the laws be faithfully executed.

SEC. 7. He may convene the legislature on extraordinary occasions.

SEC. 8. He shall give to the legislature, and at the close of his official term, to the next legislature, information by message of the condition of the state, and recommend such measures to them as he shall deem expedient.

SEC. 9. He may convene the legislature at some other place when the seat of government becomes dangerous from disease or a common enemy.

SEC. 10. He shall issue writs of election to fill such vacancies as occur in the senate or house of representatives.

SEC. 11. He may grant reprieves, commutations and pardons after convictions, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature at each session information of each case of reprieve, commutation or pardon granted, and the reasons therefor.

SEC. 12. In case of the impeachment of the governor, his removal from office, death, inability, resignation, or absence from the state the powers and duties of the office shall devolve upon the lieutenant governor, for the residue of the term, or until the disability ceases. When the governor shall be out of the state in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state.

SEC. 13. During a vacancy in the office of governor, if the lieutenant governor die, resign, or be impeached, displaced, be incapable of performing the duties of his office, or absent from the state, the president *pro tempore* of the senate shall act as governor until the vacancy be filled or the disability cease.

SEC. 14. The lieutenant governor shall, by virtue of his office, be president of the senate. In committee of the whole he may debate all questions; and when there is an equal division, he shall give the casting vote.

SEC. 15. No member of congress, nor any person holding office under the United States, or this state, shall execute the office of governor.

SEC. 16. No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them for any such office shall be void.

<sup>a</sup> SEC. 17. The lieutenant [governor] and president of the senate *pro tempore* when performing the duties of governor, shall receive the same compensation as the governor.

SEC. 18. All official acts of the governor, his approval of the laws excepted, shall be authenticated by the great seal of the state, which shall be kept by the secretary of state.

SEC. 19. All commissions issued to persons holding office under the provisions of this constitution shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

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<sup>a</sup> The word "governor," after "lieutenant" is omitted in the engrossed copy of the constitution.

<sup>b</sup> Act No. 6, public acts of 1887, provided that there should be five justices of the supreme court and that the term of office of each should be ten years. Act No. 250, public acts of 1903, provides that there shall be eight justices of the court after January 1, 1905, whose term of office shall be eight years.

## ARTICLE VI

## JUDICIAL DEPARTMENT

SECTION 1. The judicial power is vested in one supreme court, in circuit courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the legislature in cities.

<sup>b</sup> SEC. 2. For the term of six years and thereafter, until the legislature otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the legislature may provide by law for the organization of a supreme court, with the jurisdiction and powers prescribed in this constitution to consist of one chief justice and three associate justices, to be chosen by the electors of the state. Such supreme court, when so organized, shall not be changed or discontinued by the legislature for eight years thereafter. The judges thereof shall be so classified that but one of them shall go out of office at the same time. The term of office shall be eight years.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, *habeas corpus*, *mandamus*, *quo warranto*, *procedendo*, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

SEC. 4. Four terms of the supreme court shall be held annually at such times and places as may be designated by law.

SEC. 5. The supreme court shall, by general rules, establish, modify, and amend the practice in such court and in the circuit courts, and simplify the same. The legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

<sup>a</sup> SEC. 6. The state shall be divided into judicial circuits, in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years, and until his successor is elected and qualified. The legislature may provide for the election of more than one circuit judge in the judicial circuit in which the city of Detroit is or may be situated, and in the judicial circuit in which the county of Saginaw is or may be situated, and in the judicial circuit in which the county of Kent is or may be situated, and in the judicial circuit in which the county of St. Clair is or may be situated. And the circuit judge or judges of such circuits, in addition to the salary provided by the constitution, shall receive from their respective counties such additional salary as may from time to time be fixed and determined by the board of supervisors of said county. And the board of supervisors of each county in the upper peninsula, and in the counties of Bay and Washtenaw and the county of Genesee, in the lower peninsula, is hereby authorized and empowered to give and to pay to the circuit judge of the judicial circuit to which said county is attached, such additional salary or compensation as may from time to time be fixed and determined by such board of supervisors.

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<sup>a</sup> As amended by joint resolution No. 2, public acts, 1905; ratified April election, 1905.



SEC. 7. The legislature may alter the limits of circuits or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established the judge shall be elected by the electors of such circuit and his term of office shall continue, as provided in this constitution for judges of the circuit court.

<sup>a</sup> SEC. 8. The circuit court shall have original jurisdiction in all matters civil and criminal not excepted in this constitution, and not prohibited by law, and appellate jurisdiction from all inferior courts and tribunals and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments and decrees, and give them general control over inferior courts and tribunals within their respective jurisdictions, and in all such other cases and matters as the supreme court shall by rule prescribe.

SEC. 9. Each of the judges of the circuit courts shall receive a salary, payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the legislature or the people, shall be void.

SEC. 10. The supreme court may appoint a reporter of its decisions. The decisions of the supreme court shall be in writing and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing under his signature. All such opinions shall be filed in the office of the clerk of the supreme court. The judges of the circuit court within their respective jurisdictions may fill vacancies in the office of county clerk and of prosecuting attorney; but no judge of the supreme court or circuit court shall exercise any other power of appointment to public office.

SEC. 11. A circuit court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

<sup>b</sup> SEC. 12. The clerk of each county organized for judicial purposes shall be the clerk of the circuit court of such county. The supreme court shall have power to appoint a clerk for such supreme court.

SEC. 13. In each of the counties organized for judicial purposes there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and qualified. The jurisdiction, powers and duties of such courts shall be prescribed by law.

SEC. 14. When a vacancy occurs in the office of judge of the supreme, circuit or probate court, it shall be filled by appointment of the governor, which shall continue until a successor is elected and

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<sup>a</sup> As amended by joint resolution No. 12, public acts, 1893; ratified April election, 1893.

<sup>b</sup> As amended by joint resolution No. 5, public acts 1881. p. 408; ratified April election, 1881.

qualified. When elected, such successor shall hold his office the residue of the unexpired term.

SEC. 15. The supreme court, the circuit and probate courts of each county shall be courts of record, and shall each have a common seal.

SEC. 16. The legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers not exceeding those of a judge of the circuit court at chambers.

SEC. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years and until their successors are elected and qualified. At the first election in any township they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The legislature may increase the number of justices in cities.

SEC. 18. In civil cases, justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction and perform such duties as shall be prescribed by the legislature.

SEC. 19. Judges of the supreme court, circuit judges and justices of the peace shall be conservators of the peace within their respective jurisdiction.

SEC. 20. The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judge at the regular elections herein provided.

SEC. 21. The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

SEC. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

SEC. 23. The legislature may establish courts of conciliation with such powers and duties as shall be prescribed by law.

SEC. 24. Any suitor in any court of this state shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

SEC. 25. In all prosecutions for libels the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

SEC. 26. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without



describing them, nor without probable cause, supported by oath or affirmation.

SEC. 27. The right of trial by jury shall remain but shall be deemed to be waived in all civil cases unless demanded by one of the parties in such manner as shall be prescribed by law.

SEC. 28. In every criminal prosecution the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defense.

SEC. 29. No person after acquittal upon the merits shall be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

SEC. 30. Treason against the state shall consist only in levying war against or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted, nor shall witnesses be unreasonably detained.

SEC. 32. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.

SEC. 33. No person shall be imprisoned for debt arising out of, or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers, or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

SEC. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

SEC. 35. The style of all process shall be, "In the name of the People of the State of Michigan."

## ARTICLE VII

### ELECTIONS

"SECTION 1. In all elections, every male inhabitant of this state, being a citizen of the United States, every male inhabitant residing in this state on the twenty-fourth day of June, eighteen hundred thirty-five, every male inhabitant residing in this state on the first day of January, eighteen hundred fifty, every male inhabitant of foreign birth who, having resided in the state two years and six months prior to the eighth day of November, eighteen hundred ninety-four, and having declared his intention to become a citizen of the United States two years and six months prior to said last named day, and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no one shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has

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<sup>a</sup> As amended by joint resolution No. 20, public acts 1893; ratified November election, 1894.

resided in this state six months, and in the township or ward in which he offers to vote twenty days next preceding such election: *Provided*, That in time of war, insurrection or rebellion, no qualified elector in the actual military service of the United States, or of this state, or in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward or state in which he resides, and the legislature shall have the power, and shall provide the manner in which, and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election district in which they respectively reside or otherwise.

SEC. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

SEC. 3. Every elector, in all cases, except treason, felony or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the day of election, except in time of war or public danger, or attend court as a suitor or witness.

\* SEC. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this state; nor while engaged in the navigation of the waters of this state or of the United States; or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison, except that honorably discharged soldiers, sailors and marines who have served in the military or naval forces of the United States or of this state, and who reside in soldiers' homes established by this state, may acquire a residence where such home is located.

SEC. 6. Laws may be passed to preserve the purity of elections and guard against abuses of the elective franchise.

SEC. 7. No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this state in consequence of being stationed in any military or naval place within the same.

SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the constitution and laws of this state, and shall not be permitted to vote at any election.

## ARTICLE VIII

### STATE OFFICERS

SECTION 1. There shall be elected at each general biennial election a secretary of state, a superintendent of public instruction, a state treasurer, a commissioner of the land office, an auditor general, and an attorney general for the term of two years. They shall keep their offices at the seat of government and shall perform such duties as may be prescribed by law.

SEC. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

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\* As amended by joint resolution No. 21, public acts 1893; ratified November election, 1894.

SEC. 3. Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate if in session.

SEC. 4. The secretary of state, state treasurer, and commissioner of the state land office shall constitute a board of state auditors to examine and adjust all claims against the state, not otherwise provided for by general law. They shall constitute a board of state canvassers, to determine the result of all elections for governor, lieutenant governor and state officers, and of such other officers as shall by law be referred to them.

SEC. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the board of state canvassers, the legislature in joint convention shall choose one of said persons to fill such office. When the determination of the board of state canvassers is contested, the legislature in joint convention shall decide which person is elected.

## ARTICLE IX

### SALARIES

SECTION 1. The governor shall receive an annual salary of four thousand dollars; the judges of the circuit court shall each receive an annual salary of two thousand five hundred dollars; the state treasurer shall receive an annual salary of one thousand dollars; the superintendent of public instruction shall receive an annual salary of one thousand dollars; the secretary of state shall receive an annual salary of eight hundred dollars; the commissioner of the land office shall receive an annual salary of eight hundred dollars; the attorney general shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their office. It shall not be competent for the legislature to increase the salaries herein provided.

## ARTICLE X

### COUNTIES

SECTION 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

SEC. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships as surveyed by the United States, unless in pursuance of law a majority of electors residing in each county to be affected thereby shall so decide. The legislature may organize any city into a separate county, when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

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<sup>a</sup>As amended by joint resolution No. 2, public acts 1889; ratified April election, 1889.

SEC. 3. In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

SEC. 4. The sheriff, county clerk, county treasurer, judge of probate and register of deeds shall hold their offices at the county seat.

SEC. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security, his office shall be deemed vacant. The county shall never be responsible for his acts.

SEC. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

SEC. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated as the legislature may direct.

SEC. 8. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county, and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

SEC. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars for constructing or repairing public buildings, highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

\* SEC. 10. The board of supervisors, or, in the counties of Saginaw, Jackson, Washtenaw, Kent, Wayne and Genesee, the board of county auditors shall have the exclusive power to fix the compensation for all services rendered for, and to adjust all claims against, their respective counties, and the sum so fixed and defined shall be subject to no appeal.

SEC. 11. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

## ARTICLE XI

### TOWNSHIPS

SECTION 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be *ex officio* school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

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\*As amended by joint resolution No. 3, public acts 1905; ratified April election, 1905.

SEC. 2. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

## ARTICLE XII

### IMPEACHMENTS AND REMOVALS FROM OFFICE

SECTION 1. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

SEC. 2. Every impeachment shall be tried by the senate. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside. When an impeachment is directed, the senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment in case of impeachment shall not extend further than removal from office, but the party convicted shall be liable to punishment according to law.

SEC. 3. When an impeachment is directed, the house of representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the legislature, when the senate shall proceed to try the same.

SEC. 4. No judicial officer shall exercise his office after an impeachment is directed until he is acquitted.

SEC. 5. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted or until after the election and qualification of a successor.

SEC. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the legislature; but the cause for which such removal is required shall be stated at length in such resolution.

SEC. 7. The legislature shall provide by law for the removal of any officer elected by a county, township or school district, in such manner and for such cause as to them shall seem just and proper.

<sup>a</sup> SEC. 8. The governor shall have power and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of any public office and the acts of any public officer, elective or appointed, to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following state officers, to wit: The attorney general, state treasurer, commissioner of the land office, secretary of state, auditor general, superintendent of public instruction or members of the state board of education, or any other officers of the state except legislative and judicial, elective or appointed, and to appoint a successor for the remainder of their respective unexpired term of office, and report the causes of such removal to the legislature at its next session.

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<sup>a</sup>As amended by joint resolution No. 15, laws of 1861, p. 588; ratified election of 1862.



## ARTICLE XIII

## EDUCATION

SECTION 1. The superintendent of public instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

SEC. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the state for educational purposes, and the proceeds of all lands or other property given by individuals or appropriated by the state for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation.

SEC. 3. All lands the titles to which shall fail from a defect of heirs, shall escheat to the state, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

SEC. 4. The legislature shall, within five years from the adoption of this constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition at least three months in each year in every school district in the state, and all instruction in said school shall be conducted in the English language.

SEC. 5. A school shall be maintained in each school district at least three months in each year. Any school district neglecting to maintain such school shall be deprived, for the ensuing year, of its proportion of the income of the primary school fund and of all funds arising from taxes for the support of schools.

SEC. 6. There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a justice of the supreme court, eight regents of the university, two of whom shall hold their office for two years, two for four years, two for six years, and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a justice of the supreme court thereafter there shall be elected two regents whose term of office shall be eight years. When a vacancy shall occur in the office of regent, it shall be filled by appointment of the governor. The regents thus elected shall constitute the board of regents of the university of Michigan.

SEC. 7. The regents of the university and their successors in office shall continue to constitute the body corporate, known by the name and title of "The Regents of the University of Michigan."

SEC. 8. The regents of the university shall, at their first annual meeting, or as soon thereafter as may be, elect a president of the university, who shall be *ex officio* a member of their board, with the privilege of speaking but not of voting. He shall preside at the meetings of the regents and be the principal executive officer of the university. The board of regents shall have the general supervision of the university, and the direction and control of all expenditures from the university interest fund.

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<sup>a</sup>As amended by joint resolution No. 17, laws of 1861, p. 589; ratified election of 1862.

SEC. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two three members of a state board of education; one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such board, who shall hold his office for six years. The superintendent of public instruction shall be *ex officio* a member and secretary of such board. The board shall have the general supervision of the state normal school, and their duties shall be prescribed by law.

SEC. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane shall always be fostered and supported.

SEC. 11. The legislature shall encourage the promotion of intellectual, scientific and agricultural improvements; and shall, as soon as practicable, provide for the establishment of an agricultural school. The legislature may appropriate the twenty-two sections of salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose for the support and maintenance of such school, and may make the same a branch of the university, for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

<sup>a</sup> SEC. 12. The legislature shall also provide for the establishment of at least one library in each township and city, and all fines assessed and collected in the several counties and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries, unless otherwise ordered by the township board of any township or the board of education of any city: *Provided*, That in no case shall such fines be used for other than library or school purposes.

## ARTICLE XIV

### FINANCE AND TAXATION

SECTION 1. All specific state taxes, except those received from the mining companies of the upper peninsula, shall be applied in paying the interest upon the primary school, university and other educational funds and the interest and principal of the state debt in the order herein recited, until the extinguishment of the state debt, other than the amounts due to educational funds, when such specific taxes shall be added to, and constitute a part of the primary school interest fund. The legislature shall provide for an annual tax, sufficient with other resources, to pay the estimated expenses of the state government, the interest of the state debt and such deficiency as may occur in the resources.

SEC. 2. The legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of six per cent per annum and an annual increase of at least five per cent to be applied solely to the payment and extinguishment of the principal of the state debt, other than the amounts due to educational funds,

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<sup>a</sup>As amended by joint resolution No. 25, public acts 1879, p. 312; ratified April election, 1881.



and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

SEC. 3. The state may contract debts to meet deficits in revenue. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of debts so contracted.

SEC. 4. The state may contract debts to repel invasion, suppress insurrection, or defend the state in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

SEC. 5. No money shall be paid out of the treasury except in pursuance of appropriations made by law.

SEC. 6. The credit of the state shall not be granted to, or in aid of, any person, association or corporation.

SEC. 7. No scrip, certificate, or other evidence of state indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this constitution.

SEC. 8. The state shall not subscribe to, or be interested in, the stock of any company, association or corporation.

<sup>a</sup> SEC. 9. The state shall not be a party to, nor interested in, any work or internal improvement, nor engaged in carrying on any such work, except in the improvement of or aiding in the improvement of the public wagon roads and in the expenditure of grants to the state of land or other property: *Provided, however,* That the legislature of the state, by appropriate legislation, may authorize the city of Grand Rapids to issue its bonds for the improvement of Grand river.

<sup>b</sup> SEC. 10. The state may continue to collect all specific taxes accruing to the treasury under existing laws. The legislature may provide for the collection of specific taxes from corporations. The legislature may provide for the assessment of the property of corporations, at its true cash value by a state board of assessors and for the levying and collection of taxes thereon. All taxes hereafter levied on the property of such classes of corporations as are paying specific taxes under laws in force on November sixth, A. D., nineteen hundred, shall be applied as provided for specific state taxes in section one of this article.

<sup>b</sup> SEC. 11. The legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law: *Provided,* That the legislature shall provide an uniform rule of taxation for such property as shall be assessed by a state board of assessors, and the rate of taxation on such property shall be the rate which the state board of assessors shall ascertain and determine is the average rate levied upon other property upon which *ad valorem* taxes are assessed for state, county, township, school and municipal purposes.

SEC. 12. All assessments hereafter authorized shall be on property at its cash value.

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<sup>a</sup> As amended by joint resolution No. 4, public acts 1905; ratified April election, 1905.

<sup>b</sup> As amended by joint resolution No. 1, extra session of 1900; ratified November election, 1900.

<sup>a</sup> SEC. 13. In the year one thousand nine hundred and one, and every fifth year thereafter, and at such other times as the legislature may direct, the legislature shall provide for an equalization of assessments by a state board, on all taxable property, except that taxed under laws passed pursuant to section 10 of this article.

SEC. 14. Every law which imposes, continues or revives a tax shall distinctly state the tax, and the objects to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

## ARTICLE XV

### CORPORATIONS

<sup>b</sup> SECTION 1. Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes. All laws passed pursuant to this section may be amended, altered or repealed. But the legislature may, by a vote of two-thirds of the members elected to each house, create a single bank with branches.

<sup>b</sup> SEC. 2. No general banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the state at a general election and be approved by a majority of the votes cast thereon at such election.

<sup>c</sup> SEC. 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits to circulate as money, shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation or association, equally and ratably to the extent of their respective shares of stock in any such corporation or association.

<sup>b</sup> SEC. 4. For all banks organized under general laws, the legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered, in state or United States stocks bearing interest, which shall be deposited with the state treasurer for the redemption of such bills or notes in specie.

SEC. 5. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

SEC. 6. The legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association or corporation.

SEC. 7. The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association.

SEC. 8. The legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

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<sup>a</sup> As amended by joint resolution No. 1, extra session 1900; ratified November election, 1900.

<sup>b</sup> As amended by joint resolution No. 1, laws of 1861, p. 589; ratified election, 1862.

<sup>c</sup> As amended by joint resolution No. 11, laws of 1859; p. 1100; ratified election, 1860.

SEC. 9. The property of no person shall be taken by any corporation for public use, without compensation being first made or secured in such manner as may be prescribed by law.

\* SEC. 10. No corporation except for municipal purposes or for the construction of railroads, plank roads and canals, shall be created for a longer time than thirty years; but the legislature may provide by general laws, applicable to any corporations, for one or more extensions of the term of such corporations while such term is running, not exceeding thirty years for each extension, on the consent of not less than a two-thirds majority of the capital of the corporation; and by like general laws for the corporate reorganization for a further period, not exceeding thirty years, of such corporations whose terms have expired by limitation, on the consent of not less than four-fifths of the capital: *Provided*, That in cases of corporations where there is no capital stock, the legislature may provide the manner in which such corporations may be reorganized.

SEC. 11. The term "corporations," as used in the preceding sections of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. All corporations shall have the right to sue and be subject to be sued in all courts in like cases as natural persons.

SEC. 12. No corporation shall hold any real estate, hereafter acquired, for a longer period than ten years, except such real estate as shall be actually occupied by such corporation in the exercise of its franchises.

SEC. 13. The legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

SEC. 14. Judicial officers of cities and villages shall be elected and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct.

SEC. 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders and actually paid or secured in the manner provided by law.

SEC. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

## ARTICLE XVI

### EXEMPTIONS

SECTION 1. The personal property of every resident of this state, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars from sale on execution or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution.

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\* As amended by joint resolution No. 3, public acts 1889; ratified April election, 1889.

**SEC. 2.** Every homestead of not exceeding forty acres of land, and the dwelling house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city or village; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling house thereon, and its appurtenances, owned and occupied by any resident of the state, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon, lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

**SEC. 3.** The homestead of a family after the death of the owner thereof, shall be exempt from the payment of his debts contracted after the adoption of this constitution, in all cases during the minority of his children.

**SEC. 4.** If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

**SEC. 5.** The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

## ARTICLE XVII

### MILITIA

**SECTION 1.** The militia shall be composed of all able bodied male citizens, between the ages of eighteen and forty-five years, except such as are exempted by the laws of the United States or of this state; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom upon such conditions as shall be prescribed by law.

**SEC. 2.** The legislature shall provide by law for organizing, equipping and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

**SEC. 3.** Officers of the militia shall be elected or appointed and be commissioned in such manner as may be provided by law.

## ARTICLE XVIII

### MISCELLANEOUS PROVISIONS

**SECTION 1.** Members of the legislature, and all officers, executive and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear

<sup>a</sup>As amended by joint resolution No. 42, laws of 1869, p. 425; ratified election of 1870.

(or affirm) that I will support the constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability.” And no other oath, declaration or test shall be required as a qualification for any office or public trust.

\* SEC. 2. When private property is taken for the use or benefit of the public, the necessity for using such property and the just compensation to be made therefor, except when to be made by the state, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law: *Provided*, The foregoing provision shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners.

SEC. 3. No mechanical trade shall hereafter be taught to convicts in the state prison of this state, except the manufacture of those articles of which the chief supply for home consumption is imported from other states or counties.

SEC. 4. No navigable stream in this state shall be either bridged or dammed without authority from the board of supervisors of the proper county under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams or preclude the state from the further improvement of the navigation of such streams.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with the laws at every regular session of the legislature.

SEC. 6. The laws, public records, and the written judicial and legislative proceedings of the state shall be conducted, promulgated and preserved in the English language.

SEC. 7. Every person has a right to bear arms for the defense of himself and the state.

SEC. 8. The military shall in all cases, and at all times, be in strict subordination to the civil power.

SEC. 9. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

SEC. 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

SEC. 11. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

SEC. 12. No lease or grant hereafter of agricultural land for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

SEC. 13. Aliens who are or who may hereafter become, *bona fide* residents of this state, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native born citizens.

SEC. 14. The property of no person shall be taken for public use without just compensation therefor. Private roads may be opened

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\* As amended by joint resolution No. 14, laws of 1859, p. 1102; ratified election of 1860.



in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of free-holders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.

SEC. 15. No general revision of the laws shall hereafter be made. When a reprint thereof becomes necessary, the legislature in joint convention shall appoint a suitable person to collect together such acts and parts of acts as are in force, and, without alteration, arrange them under appropriate heads and titles. The law so arranged shall be submitted to two commissioners appointed by the governor for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

## ARTICLE XIX

### UPPER PENINSULA

<sup>a</sup> SECTION 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior, Huron, and Michigan, and in Green Bay and the Straits of Mackinac and the River Ste. Marie, shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

<sup>b</sup> SEC. 2. The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

<sup>c</sup> SEC. 3. The district attorney shall be elected every two years by the electors of the district, shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

SEC. 4. Such judicial district shall be entitled at all times to at least one senator, and until entitled to more by its population, it shall have three members of the house of representatives, to be apportioned among the several counties by the legislature.

SEC. 5. The legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year; and may allow extra compensation to the members of the legislature from such territory, not exceeding two dollars a day during any session.

<sup>d</sup> SEC. 6. That elections for all district or county officers, state senators or representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday of November in the respective years in which they may be required. The county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

<sup>a</sup> See act 150, laws 1863, p. 281.

<sup>b</sup> See act 150, laws 1863, p. 281. See Schedule, Sec. 26.

<sup>c</sup> See act 191, laws of 1865, p. 320.

<sup>d</sup> As amended by joint resolution No. 17, laws of 1861, p. 589; ratified election of 1862.

**SEC. 7.** One-half of the taxes received into the treasury from mining corporations in the upper peninsula, paying an annual state tax of one per cent shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

**SEC. 8.** The legislature may change the location of the state prison from Jackson to the upper peninsula.

**SEC. 9.** The charters of the several mining corporations may be modified by the legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

## ARTICLE XIX-A<sup>a</sup>

### RAILROADS

**SECTION 1.** The legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this state, and shall prohibit running contracts between such railroad companies whereby discrimination is made in favor of either of such companies as against other companies owning connecting or intersecting lines of railroad.

**SEC. 2.** No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

## ARTICLE XX

### AMENDMENT AND REVISION OF THE CONSTITUTION

**SECTION 1.<sup>b</sup>** Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals respectively, with the yeas and nays taken thereon, and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the legislature shall direct; and if a majority of electors qualified to vote for members of the legislature voting thereon shall ratify and approve such amendment or amendments, the same shall become part of the constitution.

<sup>c</sup>**SEC. 2.** At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year there-

<sup>a</sup> Submitted by joint resolution No. 1. laws of 1870, p. 13; ratified election of 1870.

<sup>b</sup> As amended by joint resolution No. 29, public acts 1875, p. 310; ratified election of 1876.

<sup>c</sup> As amended by joint resolution No. 17, laws of 1861, p. 589; ratified election of 1862.



after, and also at such other times as the legislature may by law provide, the question of the general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature, and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.

#### SCHEDULE

That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared that

SECTION 1. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the legislature.

SEC. 2. All writs, actions, causes of action, prosecutions and rights of individuals, and of bodies corporate, and of the state, and all charters of incorporation, shall continue, and all indictments which shall have been found or which may hereafter be found, for any crime or offense committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts, except as herein otherwise provided, shall continue with the like powers and jurisdiction, both at law and in equity, as if this constitution had not been adopted, and until the organization of the judicial department under this constitution.

SEC. 3. That all fines, penalties, forfeitures and escheats, accruing to the state of Michigan under the present constitution and laws, shall accrue to the use of the state under this constitution.

SEC. 4. That all recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the state of Michigan, to any state, county or township, or any public officer, or public body, or which may be entered into or executed, under existing laws, "to the people of the state of Michigan," to any such officer or public body, before the complete organization of the departments of government under this constitution, shall remain binding and valid; and rights and liabilities upon the same shall continue and may be prosecuted as provided by law. And all crimes and misdemeanors and penal actions shall be tried, punished and prosecuted as though no change had taken place, until otherwise provided by law.

SEC. 5. A governor and lieutenant governor shall be chosen under the existing constitution and laws to serve after the expiration of the term of the present incumbent.

SEC. 6. All officers, civil and military, now holding any office or appointment, shall continue to hold their respective offices, unless removed by competent authority, until superseded under the laws now in force, or under this constitution.

SEC. 7. The members of the senate and house of representatives of the legislature of one thousand eight hundred and fifty-one shall continue in office under the provisions of law, until superseded by their successors, elected and qualified under this constitution.

**SEC. 8.** All county officers, unless removed by competent authority, shall continue to hold their respective offices until the first day of January, in the year one thousand eight hundred and fifty-three. The laws, now in force as to the election, qualification and duties of township officers, shall continue in force until the legislature shall, in conformity to the provisions of this constitution, provide for the holding of elections to fill such offices, and prescribe the duties of such officers, respectively.

**SEC. 9.** On the first day of January, in the year one thousand eight hundred and fifty-two, the terms of office of the judges of the supreme court, under existing laws, and of the judges of the county courts, and of the clerks of the supreme court, shall expire, on the said day.

**SEC. 10.** On the first day of January, in the year one thousand eight hundred and fifty-two, the jurisdiction of all suits and proceedings then pending in the present supreme court shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings at law and equity then pending in the circuit courts and county courts for the several counties, shall become vested in the circuit courts of the said counties and district court for the upper peninsula.

**SEC. 11.** The probate courts, the courts of justices of the peace, and the police court, authorized by an act entitled "An act to establish a police court in the city of Detroit, approved April second, one thousand eight hundred and fifty," shall continue to exercise the jurisdiction and powers now conferred upon them, respectively, until otherwise provided by law.

**SEC. 12.** The office of state printer shall be vested in the present incumbent until the expiration of the term for which he was elected under the law then in force; and all the provisions of the said law relating to his duties, rights, privileges and compensation shall remain unimpaired and inviolate until the expiration of his said term of office.

**SEC. 13.** It shall be the duty of the legislature at their first session to adapt the present laws to the provisions of this constitution as far as may be.

**SEC. 14.** The attorney general of the state is required to prepare and report to the legislature at the commencement of the next session such changes and modifications in existing laws as may be deemed necessary to adapt the same to this constitution, and as may be best calculated to carry into effect its provisions, and he shall receive no additional compensation therefor.

**SEC. 15.** Any territory attached to any county for judicial purposes, if not otherwise represented, shall be considered as forming part of such county, so far as regards elections for the purpose of representation.

**SEC. 16.** This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Tuesday of November, one thousand eight hundred and fifty; and there shall also be submitted for adoption or rejection at the same time the separate resolution in relation to the elective franchise; and it shall be the duty of the secretary of state and all other officers, required to give or publish any notice in regard to the said general

election, to give notice, as provided by law in case of an election of governor, that this constitution has been duly submitted to the electors at said election. Every newspaper within this state publishing in the month of September next this constitution as submitted shall receive, as compensation therefor, the sum of twenty-five dollars to be paid as the legislature shall direct.

SEC. 17. Any person entitled to vote for members of the legislature, by the constitution and laws now in force, shall at the said election be entitled to vote for the adoption or rejection of this constitution, and for or against the resolution separately submitted, at the places and in the manner provided by law for the election of members of the legislature.

SEC. 18. At the said general election a ballot box shall be kept by the several boards of inspectors thereof for receiving the votes cast for or against the adoption of this constitution; and on the ballots shall be written or printed, or partly written and partly printed, the words "Adoption of the Constitution—Yes," or "Adoption of the Constitution—No."

SEC. 19. The canvass of the votes cast for the adoption or rejection of this constitution, and the provision in relation to the elective franchise separately submitted, and the returns thereof shall be made by the proper canvassing officers, in the same manner as now provided by law for the canvass and return of the votes cast at any election for governor, as near as may be, and the return thereof shall be directed to the secretary of state. On the sixteenth day of December next, or within five days thereafter, the auditor general, state treasurer, and secretary of state shall meet at the capitol, and proceed, in presence of the governor, to examine and canvass the returns of the said votes, and proclamation shall forthwith be made by the governor of the result thereof. If it shall appear that a majority of the votes cast upon the question have thereon "Adoption of the Constitution—Yes," this constitution shall be the supreme law of the state from and after the first day of January, one thousand eight hundred and fifty-one, except as is herein otherwise provided; but if a majority of the votes cast upon the question have thereon "Adoption of the Constitution—No," the same shall be null and void. And in case of the adoption of this constitution, said officers shall immediately, or as soon thereafter as practicable, proceed to open the statements of votes returned from the several counties for judges of the supreme court and state officers under the act entitled "An act to amend the revised statutes and to provide for the election of certain officers by the people in pursuance to an amendment of the constitution," approved February sixteenth, one thousand eight hundred and fifty, and shall ascertain, determine and certify the results of the election for said officers under said act, in the same manner as near as may be, as is now provided by law in regard to the election of representatives in congress. And the several judges and officers so ascertained to have been elected may be qualified and enter upon the duties of their respective offices, on the first Monday of January next or as soon thereafter as practicable.

SEC. 20. The salaries or compensation of all persons holding office under the present constitution shall continue to be the same as now provided by law, until superseded by their successors elected or appointed under this constitution; and it shall not be lawful here-

after for the legislature to increase or diminish the compensation of any officer during the term for which he is elected or appointed.

SEC. 21. The legislature at their first session shall provide for the payment of all expenditures of the convention to revise the constitution and of the publication of the same as is provided in this article.

SEC. 22. Every county except Mackinaw and Chippewa entitled to a representative in the legislature, at the time of the adoption of this constitution, shall continue to be so entitled under this constitution, and the county of Saginaw, with the territory that may be attached, shall be entitled to one representative; the county of Tuscola, and the territory that may be attached, one representative; the county of Sanilac, and the territory that may be attached, one representative; the counties of Midland and Arenac, with the territory that may be attached, one representative; the county of Montcalm, with the territory that may be attached thereto, one representative; and the counties of Newaygo and Oceana, with the territory that may be attached thereto, one representative; each county having a ratio of representation, and a fraction over, equal to a moiety of said ratio, shall be entitled to two representatives; and so on above that number, giving one additional member for each additional ratio.

SEC. 23. The cases pending and undisposed of in the late court of chancery, at the time of the adoption of this constitution, shall continue to be heard and determined by the judges of the supreme court. But the legislature shall at its session in one thousand eight hundred and fifty-one provide by law for the transfer of said causes that may remain undisposed of on the first day of January, one thousand eight hundred and fifty-two, to the supreme or circuit court established by this constitution, or require that the same may be heard and determined by the circuit judges.

SEC. 24. The term of office of the governor and lieutenant governor shall commence on the first day of January next after their election.

SEC. 25. The territory described in the article entitled "Upper Peninsula," shall be attached to and constitute a part of the third circuit for the election of a regent of the university.

SEC. 26. The legislature shall have authority after the expiration of the term of office of the district judge first elected for the "Upper Peninsula," to abolish said office of district judge and district attorney or either of them.

SEC. 27. The legislature shall, at its session of one thousand eight hundred and fifty-one, apportion the representatives among the several counties and districts, and divide the state into senate districts pursuant to the provisions of this constitution.

SEC. 28. The terms of office of all state and county officers, of the circuit judges, members of the board of education, and members of the legislature shall begin on the first day of January next succeeding their election.

SEC. 29. The state, exclusive of the upper peninsula, shall be divided into eight judicial circuits, and the counties of Monroe, Lenawee and Hillsdale shall constitute the first circuit; the counties of Branch, St. Joseph, Cass and Berrien shall constitute the second circuit; the county of Wayne shall constitute the third circuit; the counties of Washtenaw, Jackson and Ingham shall constitute the

fourth circuit; the counties of Calhoun, Kalamazoo, Allegan, Eaton and Van Buren shall constitute the fifth circuit; the counties of St. Clair, Macomb, Oakland and Sanilac shall constitute the sixth circuit; the counties of Lapeer, Genesee, Saginaw, Shiawassee, Livingston, Tuscola, and Midland shall constitute the seventh circuit; and the counties of Barry, Kent, Ottawa, Ionia, Clinton and Montcalm shall constitute the eighth circuit.

Done in convention at the capitol of the state this fifteenth day of August in the year of our Lord one thousand eight hundred and fifty and of the independence of the United States the seventy-fifth.

D. GOODWIN, *President*.

### AMENDMENTS

#### SUMMARY OF VOTES BY WHICH ADOPTED OR REJECTED FROM 1850 TO 1905

(November, 1850)

An amendment to grant "equal suffrage to colored persons," was submitted to the people, November, 1850, and rejected by the following vote: For, 12,840; against, 32,026.

(November, 1858)

The general banking law of the state was submitted to the people, November 2, 1858, and adopted. For, 41,006; against, 19,865.

(November, 1860)

"As to banking corporations" making officers and stockholders individually liable to the extent of their respective shares of stock, adopted as follows: For, 59,954; against, 15,477.

"As to legislative sessions," fixing time and place of holding, and providing for adjournment; also, providing that no new bill shall be introduced after the first fifty days of the session shall have expired, and allowing extra compensation to members from the upper peninsula, not to exceed two dollars per day during the session. Adopted as follows: For, 53,152; against, 18,246.

"As to Sec. 2, Art. XVIII," adding to said section the following: "Provided, The foregoing provision shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners." Adopted. For, 62,936; against, 8,054.

(November, 1862)

"Relative to removals from office," empowering the governor to inquire into the condition and administration of any public office, and acts of public officers (except legislative and judicial), to remove such officers in certain cases, appoint a successor, and report the causes of such removal to the next legislature. Adopted. For, 3,180; against, 1,273.

"As to banks," providing that corporations shall be formed under general laws only, except for municipal purposes, but allowing the legislature by a vote of two-thirds of all the members elected to create a single bank with branches; also that no general banking law shall



take effect until ratified by the people; also, for all banks organized under general laws, the legislature shall provide for the registry of all bills or notes issued as money, and requiring security to the full amount of such issue, in State or United States stocks, bearing interest, to be deposited with the state treasurer. Adopted. For, 5,067; against, 1,644.

“As to regents of the university,” providing for the election of a board of eight in 1863, their respective terms of office, when successors to be elected, etc. Adopted. For, 4,363; against, 1,901.

“As to elections in upper peninsula,” fixing the time for the election of certain state officers, to wit: all district or county officers, state senators or representatives, and the time of holding the county and district canvass. Adopted. For, 5,193; against, 1,440.

“As to amendments of the constitution,” providing that the question of the revision of the constitution be submitted to the electors at the general election in 1866, and in each sixteenth year thereafter, and also at such other times as the legislature may by law provide. Adopted. For, 4,375; against, 1,806.

(November, 1866)

“As to soldiers voting,” providing that, in time of war, insurrection or rebellion, no elector shall be deprived of his right to vote by reason of his service in the army or navy at such time, in this State or the United States. Adopted. For, 86,354; against, 13,094.

“For a revision of the constitution,” the people expressed their sanction for revision by the following vote: For, 79,505; against, 28,623.

(April, 1868)

“Proposition relative to annual or biennial sessions of the legislature to stand as section eight (8) of article five (5) of said constitution,” on which the votes were as follows: Annual sessions—“Yes,” 24,482; biennial sessions—“Yes,” 100,314.

“Proposed section relative to prohibition,” providing that ‘The legislature shall not pass any act authorizing the grant of licenses for the sale of ardent spirits or intoxicating liquors but shall by law prohibit the sale of the same as a beverage, on which the vote was as follows: Prohibition—“Yes,” 72,462; prohibition—“No,” 86,143.

(November, 1870)

“Relative to raising two thousand dollars for public buildings, highways, or bridges,” empowering the board of supervisors of any county to raise not to exceed the above named sum per annum for such purposes. Rejected. For, 39,180; against, 61,904.

“Relative to the salaries of state officers and judges of the circuit court.” The following were the proposed salaries: Governor, two thousand five hundred dollars; judges of the circuit court, secretary of state, state treasurer, auditor general, commissioner of the state land office, attorney general and superintendent of public instruction, two thousand dollars each. Rejected. For, 36,109; against, 68,912.

“Impartial suffrage.” Under this head were three propositions: 1st. The apportionment of representatives. 2d. The qualification of



electors, by which the word "white" was stricken from the constitution. 3d. Of whom the militia shall be composed. Adopted. For, 54,105; against, 50,598.

"Of railroads." There were three propositions under this head. 1st. Authorizing the legislature to regulate passenger and freight charges. Adopted. For, 78,602; against, 51,397. 2d. Prohibiting the consolidation of competing lines of railroad, except that at least sixty days' notice be given publicly to all stockholders, as provided by law. Adopted. For, 76,912; against, 51,194. 3d. Authorizing the payment of bonds or obligations heretofore issued. Rejected. For, 50,078; against, 78,453.

(November, 1872)

"Providing for the payment of bonds issued and negotiated, and the purchase price thereof realized prior to May 27, 1870, by the counties, townships and municipalities issuing the same for, and in aid of any railroad company." Rejected. For, 44,684; against, 70,893.

"Relative to the limits of judicial circuits, and the number thereof." Rejected. For, 47,972; against, 65,848.

"Relative to the salaries of circuit judges," fixing their salaries at two thousand five hundred dollars. Rejected. For, 57,326; against, 58,987.

(November, 1874)

Amendment submitted to the people, relating to woman suffrage. Rejected. For, 40,077; against, 135,957.

Revision of Constitution, prepared by the Constitutional Commission of 1873, appointed by the Governor by authority of joint resolution No. 19, laws of 1873, and approved and submitted by joint resolution No. 4, laws of 1874, (extra session). Rejected. For, 39,285; against, 124,034.

(November, 1876)

"Relative to license for the sale of intoxicating liquors." Clause forbidding the grant of license stricken from the constitution by the following vote: For striking out, 60,639; against, 52,561.

"Relative to the salaries of judges of the circuit court," proposing two thousand five hundred dollars per annum each. Rejected. For, 65,371; against, 65,966.

"As to the time of submitting to the people amendments to the constitution." Amendment and revision may be submitted to the people at the spring or autumn election. Adopted. For, 52,306; against, 21,984.

(April, 1878)

"Relative to appointment of clerk of the supreme court." To give power of appointment to court. Rejected. For, 30,313; against, 34,712.

"Relative to corporations." Making stockholders individually liable to the full amount of their respective shares, for all labor done for or in behalf of such corporation. Rejected. For, 24,770; against, 42,064.

(April, 1880)

“Relative to the salary of the governor.” Fixing the salary at three thousand dollars per year. Rejected. For, 49,035; against, 91,753.

(November, 1880)

“Relative to a bridge or tunnel across the Detroit river.” Rejected. For, 37,340; against, 58,040.

(April, 1881)

“Relative to penal fines.” Empowering boards of education in cities, or township boards, to apply such fines to library or school purposes. Adopted. For, 51,475; against, 8,370.

“Relative to clerks of the circuit and supreme courts.” Authorizing the supreme court to appoint its own clerk. Adopted. For, 62,593; against, 6,640.

“Relative to circuit courts.” Providing for more than one judge in the circuit in which Detroit is or may be situated. Adopted. For, 53,840; against, 6,628.

(November, 1882)

“Relative to the salaries of the judges of the circuit courts.” Increasing such salaries. Adopted. For, 85,705; against, 55,638.

“Relative to the adjustment of claims against counties.” Providing for the establishment of boards of county auditors. Rejected. For, 23,814; against, 38,073.

“Revision.” The question of a general revision of the constitution was also submitted and was decided in the negative by the following vote: For, 20,937; against, 35,123.

(November, 1884)

“Relative to the salaries of circuit judges, upper peninsula, allowing increase.” Adopted. For, 35,345; against, 28,642.

“Relative to compensation of members of the legislature, and prohibiting acceptance by them of railroad passes.” Rejected. For, 31,693; against, 52,707.

(November, 1886)

“Relative to the board of auditors of Wayne county.” Rejected. For, 15,020; against, 20,755.

“Relative to the salaries of state officers.” Rejected. For, 40,445; against, 60,220.

(April, 1887)

“Relative to the liquor traffic.” Rejected. For, 178,636; against, 184,281.

“Relative to the salaries of state officers.” Rejected. For, 72,718; against, 124,838.

(November, 1888)

“Relative to circuit courts.” Adopted. For, 21,221; against, 19,382.

"A general banking law" was submitted to the people November, 1888, and adopted. For, 48,531; against, 20,300.

(April, 1889)

"Relative to circuit courts." Adopted. For, 49,478; against, 19,834.

"Relative to duration of corporations." Adopted. For, 35,269; against, 28,950.

"Relative to salary of governor," making the salary four thousand dollars per annum. Adopted. For, 111,854; against, 72,494.

(November, 1890)

"The question of a general revision of the constitution" was submitted to the people and rejected. For, 16,431; against, 26,261.

(April, 1891)

"Salary of attorney general." Adopted. For, 69,622; against, 68,335. Recanvassed June 1, 1894, by order of supreme court, with the following result: For, 69,248; against, 69,651.

(November, 1892)

"Convention for the purpose of a general revision of the constitution." Rejected. For, 16,948; against, 16,245.

(April 3, 1893)

"Relative to salaries of state officers." For, 64,422; against, 62,601. Recanvassed January 19, 1894, by order of the supreme court, with the following result: Rejected. For, 59,317; against, 70,772.

"Relative to works of internal improvement at Grand Rapids." For, 70,597; against, 55,091. Recanvassed January 19, 1894, by order of the supreme court, with the following result: Adopted. For, 72,745; against, 52,476.

"Relative to extending jurisdiction of circuit courts in certain cases." For, 60,219; against, 53,492. Recanvassed January 19, 1894, by order of the supreme court, with the following result: Adopted. For, 62,023; against, 48,797.

"Relative to creation of county and township boards of highway commissioners." For, 68,486; against, 60,015. Recanvassed January 19, 1894, by order of the supreme court, with the following result: Adopted. For, 69,050; against 59,922.

(November 6, 1894)

"Authorizing inmates of soldiers' homes to vote where such homes are situated." Adopted. For, 127,758; against, 29,607.

"Relative to the qualifications of electors of this state, requiring foreign born electors to be citizens of the United States or to have declared their intention of becoming such two years and six months prior to the eighth day of November, 1894." Adopted. For, 117,088 against, 31,537.

(April 1, 1895)

“Relative to the salaries of state officers.” Rejected. For, 50,065; against, 139,039.

“Relative to circuit courts.” Rejected. For, 60,567; against, 97,278.

(April 5, 1897)

“Relative to the salary of attorney general.” Rejected. For, 70,138; against, 90,973.

“Relative to board of county auditors for Kent county.” Rejected. For, 53,201; against, 57,793.

(November 8, 1898)

“Convention for the purpose of a general revision of the constitution.” Rejected. For, 162,123; against, 127,147.

(April 3, 1899)

“Relative to improvement and maintenance of highways.” Adopted. For, 130,416; against, 93,442.

“Relative to circuit courts.” Adopted. For, 108,197; against, 104,884.

“Relative to judicial department.” Rejected. For, 99,391; against, 102,269.

“Relative to state printing office.” Rejected. For, 105,711; against, 108,317.

(November 6, 1900)

“Relative to the taxation of corporations.” Adopted. For, 142,728; against, 54,757.

(April 1, 1901)

“Relative to salaries of members of the legislature.” Rejected. For, 112,883; against, 187,615.

“Relative to circuit courts.” Rejected. For, 110,855; against, 130,108.

(November 4, 1902)

“Relative to the publication of the general laws in newspapers.” Adopted. For, 155,837; against, 105,241.

“Relative to indeterminate sentences.” Adopted. For, 146,265; against, 78,338.

(April 6, 1903)

“Relative to circuit courts.” Adopted. For, 105,618; against, 83,048.

“Relative to board of county auditors in the counties of Saginaw, Jackson, Washtenaw and Kent.” Adopted. For, 108,889; against, 84,636.

(November 8, 1904)

“Convention for the purpose of a general revision of the constitution.” Rejected. For, 165,123; against, 120,018.

“Relative to limiting the time for the introduction of bills.” Adopted. For, 180,157; against, 98,657.

(April 3, 1905)

“Relative to public wagon roads.” Adopted. For, 205,750; against, 63,506.

“Relative to the board of county auditors for the county of Genesee.” Adopted. For, 94,860; against, 64,825.

“Relative to the compensation of circuit judge in the county of Genesee.” Adopted. For, 91,994; against, 63,590.

(April 2, 1906)

“Convention for a general revision of the constitution.” Adopted. For, 196,780; against, 127,189.

NOTE.—See Appendix for the text of the original constitution of Michigan of 1850.

# MINNESOTA<sup>a</sup>

For organic acts issued before 1849 relating to the land now included within Minnesota see in this work :

Virginia Act of Cession, 1783 (Illinois, p. 955).  
Deed of Cession from Virginia, 1784 (Illinois, p. 957).  
Northwest Territorial Government, 1787 (Illinois, p. 957).  
Virginia Act of Ratification, 1788 (Illinois, p. 963).  
Northwest Territorial Government, 1789 (Illinois, p. 963).  
Territorial Government of Indiana, 1800 (Illinois, p. 964).  
Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).  
District of Louisiana, 1804 (Louisiana, p. 1364).  
Territory of Louisiana, 1805 (Louisiana, p. 1371).  
Territory of Illinois, 1809 (Illinois, p. 966).  
Territory of Missouri, 1812 (Missouri, p. 2139).  
Enabling Act for Illinois, 1818 (Illinois, p. 967).  
Extension of Michigan Territory, 1834 (Iowa, p. 1111).  
Territory of Wisconsin, 1836 (Wisconsin, p. 4065).  
Territory of Iowa, 1838 (Iowa, p. 1111).

## TERRITORIAL GOVERNMENT OF MINNESOTA—1849

[THIRTIETH CONGRESS, SECOND SESSION]

An Act to establish the Territorial Government of Minnesota

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act, all that part of the territory of the United States which lies within the following limits, to wit: Beginning in the Mississippi River, at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same; thence running due west on said line, which is the northern boundary of the State of Iowa, to the northwest corner of the said State of Iowa; thence southerly, along the western boundary of said State, to the point where said boundary strikes the Missouri River; thence up the middle of the main channel of the Missouri River to the mouth of the White Earth River; thence up the middle of the main channel of the White Earth River to the boundary-line between the possessions of the United States and Great Britain; thence east and south of east, along the boundary-line between the possessions of the United States and Great Britain, to Lake Superior; thence in

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<sup>a</sup> The area included in the present State of Minnesota was partly embraced in the Northwest Territory, ceded to the United States by Virginia in 1783, and partly in the Territory of Louisiana, purchased from France in 1803. Parts or all of it were subsequently successively included in the Territory of Indiana, the Territory of Louisiana, the Territory of Illinois, the Territory of Missouri, the Territory of Michigan, the Territory of Wisconsin, and the Territory of Iowa.



a straight line to the northernmost point of the State of Wisconsin in Lake Superior; thence along the western boundary-line of said State of Wisconsin to the Mississippi River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, erected into a temporary government by the name of the Territory of Minnesota: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Minnesota shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of councillors and representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of population: *Provided*, That the whole number shall never exceed fifteen councillors and thirty-nine representatives. An apportionment shall be made, as nearly equal as practicable, among the several

counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed

or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Minnesota. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint, all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That the justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof

as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the late Territory of Wisconsin received. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the late Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually trav-



elled route. There shall be appropriated, annually, the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the laws in force in the Territory of Wisconsin at the date of the admission of the State of Wisconsin shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said Territory of Minnesota; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Minnesota shall hold its first session at Saint Paul; and at said first session the governor and legislative assembly shall locate and establish a temporary seat of government for said Territory at such place as they may deem eligible; and shall, at such time as they shall see proper, prescribe by law the manner of locating the permanent seat of government of said Territory by a vote of the people. And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Minnesota, to be applied, by the governor and legislative assembly, to the erection of suitable public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such times and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts of the Territory of Wisconsin, within the limits of said Territory of Minnesota, when this act shall take effect, shall be transferred, to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceedings may be pending. All bonds,

recognizances, and obligations, of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried, and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action may be recovered under this act the same as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory, when this act shall take effect, shall be, and they are hereby, authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Minnesota, temporarily, and until they, or others, shall be duly appointed and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 17. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended by and under the direction of the said governor of the Territory of Minnesota in the purchase of a library, to be kept at the seat of government, for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons and under such regulations as shall be prescribed by law.

SEC. 18. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 19. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 20. *And be it further enacted*, That every bill which shall or may pass the council and house of representatives shall, before it becomes a law, be presented to the governor of the Territory; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it originated; which shall cause the objections to be entered at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall also be reconsidered, and if approved by two-thirds of that house, it shall become a law; but in all such cases the votes of both houses shall be determined by yeas and



nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment, prevent it; in which case it shall not become a law.

Approved, March 3, 1849.

### ENABLING ACT FOR MINNESOTA—1857

[THIRTY-FIFTH CONGRESS, FIRST SESSION]

An Act to authorize the People of the Territory of Minnesota to form a Constitution and State Government, preparatory to their Admission in the Union on an equal Footing with the original States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of that portion of the Territory of Minnesota which is embraced in the following limits, to wit: Beginning at the point in the centre of the main channel of the Red River of the North where the boundary-line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Boix des Sioux River; thence [up] the main channel of said river to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due-south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary-line of the State of Wisconsin, until the same intersects the Saint Louis River; thence down said river to and through Lake Superior, on the boundary-line of Wisconsin and Michigan, until it intersects the dividing-line between the United States and the British possessions; thence up Pigeon River, and following said dividing-line, to the place of beginning—be, and they are hereby, authorized to form for themselves a constitution and State government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution.

SEC. 2. *And be it further enacted,* That the said State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same, and said river and waters, and the navigable waters leading into the same, shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. *And be it further enacted,* That on the first Monday in June next the legal voters in each representative district, then existing within the limits of the proposed State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the

territorial legislature, which election for delegates shall be held and conducted and the returns made in all respects in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the capital of said Territory on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time, and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

SEC. 4. *And be it further enacted*, That in the event said convention shall decide in favor of the immediate admission of the proposed State into the Union, it shall be the duty of the United States marshal for said Territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with the view of ascertaining the number of Representatives to which said State may be entitled in the Congress of the United States; and said State shall be entitled to one Representative and such additional Representatives as the population of the State shall, according to the census, show it would be entitled to according to the present ratio of representation.

SEC. 5. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:

*First.* That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools.

*Second.* That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land-Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

*Third.* That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

*Fourth.* That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the governor thereof within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

*Fifth.* That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of the said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona-fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

Approved, February 26, 1857.

## ACT FOR THE ADMISSION OF MINNESOTA—1858

[THIRTY-FIFTH CONGRESS, FIRST SESSION]

An Act for the Admission of the State of Minnesota into the Union

Whereas an act of Congress was passed February twenty-six, eighteen hundred and fifty-seven, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original States;" and whereas the people of said Territory did, on the twenty-ninth day of August, eighteen hundred and fifty-seven, by delegates elected for that purpose, form for themselves a constitution and state government, which is republican in form, and was ratified and adopted by the people, at an election held on the thirteenth day of October, eighteen hundred and fifty-seven, for that purpose: therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Minnesota shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That said State shall be entitled to two representatives in Congress until the next apportionment of representatives amongst the several States.

SEC. 3. *And be it further enacted*, That from and after the admission of the State of Minnesota, as hereinbefore provided, all the laws of the United States which are not locally inapplicable shall have the same force and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established; the judge, attorney, and marshal of the United States for the said district of Minnesota shall reside within the same, and shall be entitled to the same compensation as

the judge, attorney, and marshal of the district of Iowa: and in all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States, upon any record from the supreme court of Minnesota Territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the State of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota Territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

Approved, May 11, 1858.

## CONSTITUTION OF MINNESOTA—1857 \* a

### PREAMBLE

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this constitution:

### ARTICLE I.

#### BILL OF RIGHTS

**SECTION 1.** Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

**SEC. 2.** No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

**SEC. 3.** The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

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\* Verified from official copy received from the Secretary of State of Minnesota.

The Debates and Proceedings of the Minnesota Constitutional Convention including the organic act of the Territory, with the enabling Act of Congress, the act of the Territorial Legislature Relative to the Convention, and the vote of the People on the Constitution. Reported Officially by Francis H. Smith. Saint Paul: Earl S. Goodrich, Territorial Printer, Pioneer and Democrat office. 1857. Pp. 651-677.

See Journal of the Constitutional Convention of the Territory of Minnesota, Begun and held in the city of Saint Paul, Capital of said Territory, on Monday, the Thirteenth day of July, one Thousand eight hundred and fifty-seven. Saint Paul: Earle S. Goodrich, State Printer. Pioneer and Democrat Office. 1857. Pp. 171-201.

Also Debates and Proceedings of the Constitutional Convention for the Territory of Minnesota, to form a State Constitution preparatory to its admission into the Union as a State. T. F. Andrews, Official Reporter to the convention. Saint Paul: George W. Moore, Printer. Minnesotian office. 1858. Pp. 605-619.

<sup>a</sup> Adopted October 13, 1857. Ayes, 30,055; noes, 571.

SEC. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases in the manner prescribed by law; [and the legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six (6) hours' deliberation, shall be a sufficient verdict therein.] <sup>a</sup>

SEC. 5. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

<sup>b</sup> SEC. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

SEC. 7. No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion the public safety may require.

SEC. 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial: promptly and without delay, conformable to the laws.

SEC. 9. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 10. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

SEC. 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 12. No person shall be imprisoned for debt in this State,<sup>c</sup> but this shall not prevent the legislature from providing for imprison-

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<sup>a</sup> The clause in brackets was adopted Nov. 4, 1890.

<sup>b</sup> The jury contemplated by this section, securing the right to jury trial in criminal cases, is a body of twelve men, and it is error to try a party charged with crime in a justice court, against his objection, with a jury of six. The fact that he may appeal to the district court, on entering into recognizance with sureties, does not change the rule. 14 Minn. 330.

<sup>c</sup> 23 Minn. 1; 23 Minn. 411.



ment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. [*Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the contruction, repair or improvement of the same; and, provided further, that such liability to seizure and sale shall also extend to all real property for any debt incurred to any laborer or servant for labor or service performed.*] <sup>a</sup>

SEC. 13. Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.<sup>b</sup>

SEC. 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

SEC. 15. All lands within the State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural lands for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

SEC. 16. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

SEC. 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

## ARTICLE II

### ON NAME AND BOUNDARIES

SECTION 1. This State shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the territory embraced in the following boundaries, to-wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and

<sup>a</sup> The clause in brackets was adopted Nov. 6, 1888.

<sup>b</sup> The words "destroyed or damaged" inserted by amendment adopted Nov. 3, 1896.



British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux river; thence up the main channel of said river to Lake Traverse; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi river; thence up the main channel of said river and following the boundary line of the State of Wisconsin until the same intersects the St. Louis river; thence down the said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British Possessions; thence up Pigeon river and following said dividing line to the place of beginning.<sup>a</sup>

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and on all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other state or states now or hereafter to be formed by the same; and said rivers and waters, and navigable waters leading into the same, shall be common highways and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor.

SEC. 3. The propositions contained in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," are hereby

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<sup>a</sup> The northern boundary of the state at the Lake of the Woods is projected beyond the 49th parallel a distance of about twenty miles, making a wedge-shaped jog through the lake until it strikes firm ground on the west bank of the lake; thence in a due south line to the 49th parallel. The explanation of this jog is found in the subjoined paragraphs: In the seventh article of the treaty of Ghent, section 19 reads as follows: Sec. 19. Resolved that the following described (also represented on said map as before mentioned), is, in the opinion of the commissioners, so far as the same extends, the true boundary intended by the before mentioned treaties, namely: \* \* \* thence through the middle of the waters of this bay to the northwest extremity of the same; being the most northwestern point of the Lake of the Woods, and from a monument in this bay, on the nearest firm ground to the above northwest extremity of said bay, the courses and distances are as follows: 56° W. 1,565½ feet; 2d, N. 6° W. 861½ feet; 3d, N. 28° W. 615.4 feet; 4th, N. 27° 10' W. 495.4 feet; 5th, N. 5° 10' E. 1,322½ feet; 6th, N. 7° 45' W. 493 feet, the variation being 12° east. The termination of this 6th and last course and distance being the above said most northwestern point of the Lake of the Woods, as designated by the seventh article of the treaty of Ghent, and being in latitude 49° 23' 55" north of the equator, and in longitude 95° 14' 38" west from Greenwich. The second article of the convention of 1818 is as follows: Article 2. It is agreed that a line drawn from the most northwestern point of the Lake of the Woods along the 49th parallel of north latitude, or, if the said point shall not be in the 49th parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west, along and with the said parallel, shall be the line of demarkation between the territories of the United States and His Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States and the southern boundary of his Britannic Majesty, from the Lake of the Woods to the Stony Mountains. This boundary was re-established and determined by a commission authorized by congress, and the surveys embracing four years were made and reported to congress in 1877.

accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to *bona fide* purchasers thereof; and no tax shall be imposed on lands belonging to the United States and in no case shall non-resident proprietors be taxed higher than residents.

### ARTICLE III

#### DISTRIBUTION OF THE POWERS OF GOVERNMENT

SECTION 1. The powers of government shall be divided into three distinct departments—legislative, executive, and judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this constitution.<sup>a</sup>

### ARTICLE IV

#### LEGISLATIVE DEPARTMENT

SECTION 1. The legislature shall consist of the Senate and House of Representatives, which shall meet biennially at the seat of government of the State, at such time as shall be prescribed by law, but no session shall exceed the term of ninety (90) legislative days;<sup>b</sup> and no new bill shall be introduced in either branch, except on the written request of the governor, during the last twenty (20) days of such sessions, except the attention of the legislature shall be called to some important matter of general interest by a special message from the governor.<sup>c</sup>

SEC. 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representatives in the Senate shall never exceed one member for every 5,000 inhabitants, and in the House of Representatives one member for every 2,000 inhabitants. The representation in both houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

SEC. 3. Each house shall be the judge of the election returns and eligibility of its own members;<sup>d</sup> a majority of each shall constitute

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<sup>a</sup> Courts cannot control or interfere with an executive officer of the state in his official acts, even though they are such that the duty to perform them might have been entrusted to some other officer. 28 Minn. 50.

<sup>b</sup> Feb. 5, 1889, the judiciary committee of the House of Representatives unanimously reported, "that it was clearly the purpose of the legislature which proposed this amendment of the Constitution to the people, and plainly the intention of the people themselves, when voting for its adoption, to limit the sessions of the legislature to ninety days, excluding only Sundays and legal holidays." Also that twenty days' limitation of introduction of bills before adjournment only applied to the period of ninety days, and proportionately for a shorter session.

<sup>c</sup> Amendment adopted Nov. 6, 1888.

<sup>d</sup> The election of a state senator or representative to congress does not necessarily create a vacancy. Senate Journal, 1889, page 962. See opinion of Att'y Gen. Clapp.

a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

SEC. 4. Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but no member shall be expelled the second time for the same offense.

SEC. 5. The House of Representatives shall elect its presiding officer and the Senate and House of Representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

SEC. 6. Neither house shall, during a session of the legislature, adjourn for more than three days (Sundays excepted), nor to any other place than that in which the two houses shall be assembled, without the consent of the other house.

SEC. 7. The compensation of senators and representatives shall be three dollars per diem during the first session, but may afterwards be prescribed by law.<sup>a</sup> But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

SEC. 8. The members of each house shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective houses, and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

SEC. 9. No senator or representative shall, during the time for which he is elected, hold any office under the authority of the United States or the State of Minnesota, except that of postmaster, and no senator or representative shall hold an office under the state which has been created or the emoluments of which have been increased during the session of the legislature of which he was a member, until one year after the expiration of his term of office in the legislature.<sup>b</sup>

SEC. 10. All bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments as on other bills.

SEC. 11. Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each house and the joint rules of the two houses, shall, before it becomes a law, be presented to the governor of the State. If he approve, he shall sign and deposit it in the office of secretary of state for preservation, and notify the house where it originated of the fact. But if not, he shall return it, with his objections, to the house in which it shall have originated; when such objections shall be entered at large on the journal of the same, and the house shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if it be approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered

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<sup>a</sup> Made \$5.00 per day, G. L. 1873, ch. 113.

<sup>b</sup> 27 Minn. 466.

on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by adjournment within that time, prevents its return; in which case it shall not be a law. The governor may approve, sign and file in the office of the secretary of state, within three days after the adjournment of the legislature, any act passed during the last three days of the session, and the same shall become a law.

[If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items, while approving of the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.]<sup>a</sup>

SEC. 12. No money shall be appropriated except by bill. Every order, resolution or vote requiring the concurrence of the two houses (except such as relate to the business or adjournment of the same) shall be presented to the governor for his signature, and, before the same shall take effect, shall be approved by him, or, being returned by him with his objections, shall be repassed by two-thirds of the members of the two houses, according to the rules and limitations prescribed in case of a bill.

SEC. 13. The style of all laws of this State shall be: "Be it enacted by the Legislature of the State of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each branch of the legislature, and the vote entered upon the journal of each house.

SEC. 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate; and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 15. The legislature shall have full power to exclude from the privilege of electing or being elected any person convicted of bribery, perjury, or any other infamous crime.

SEC. 16. Two or more members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the journal.

SEC. 17. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature. The legis-

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<sup>a</sup> This paragraph in brackets was adopted Nov. 7, 1876.

lature shall prescribe by law the manner in which evidence in cases of contested seats in either house shall be taken.

SEC. 18. Each house may punish by imprisonment, during its session, any person, not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 19. Each house shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

SEC. 20. Every bill<sup>a</sup> shall be read on three different days in each separate house, unless, in case of urgency, two-thirds of the house where such bill is depending shall deem it expedient to dispense with this rule; and no bill shall be passed by either house until it shall have been previously read twice at length.<sup>a</sup>

SEC. 21. Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house. Any presiding officer refusing to sign a bill which shall have previously passed both houses shall thereafter be incapable of holding a seat in either branch of the legislature, or hold any other office of honor or profit in the State, and in case of such refusal, each house shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the governor.

SEC. 22. No bill shall be passed by either house of the legislature upon the day prescribed for the adjournment of the two houses. But this section shall not be so construed as to preclude the enrollment of a bill, or the signature and passage from one house to the other, or the reports thereon from committees, or its transmission to the executive for his signature.

SEC. 23. The legislature shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the senators and representatives among the several districts according to the provisions of section second of this article.

SEC. 24. The senators shall also be chosen by single districts of convenient contiguous territory, at the same time that members of the house of representatives are required to be chosen, and in the same manner; and no representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series. The terms of office of senators and representatives shall be the same as now prescribed by law until the general election of the year one thousand eight hundred and seventy-eight (1878), at which time there shall be an entire new election of all the senators and representatives. Representatives chosen at such election, or at any election thereafter, shall hold their office for the term of two years, except it be to fill a vacancy; and the senators chosen at such election by districts designated as odd numbers shall go out of office at the expiration of the second year, and senators chosen by districts designated by even numbers shall go out of office

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<sup>a</sup> Provision as to manner of passing bills imperative and not directory. 2 Minn. 330.



at the expiration of the fourth year; and thereafter senators shall be chosen for four years, except there shall be an entire new election of all the senators at the election of representatives next succeeding each new apportionment provided for in this article.<sup>a</sup>

SEC. 25. Senators and representatives shall be qualified voters of the State, and shall have resided one year in the State and six months immediately preceding the election in the district from which they are elected.

SEC. 26. Members of the Senate of the United States from this State shall be elected by the two houses of the legislature in joint convention, at such time and in such manner as may be provided by law.<sup>b</sup>

SEC. 27. No law shall embrace more than one subject, which shall be expressed in its title.<sup>c</sup>

SEC. 28. Divorces shall not be granted by the legislature.

SEC. 29. All members and officers of both branches of the legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and

<sup>a</sup> ST. PAUL, Aug. 11, 1892.

Hon. F. P. BROWN, *Secretary of State*.

Dear Sir: You inquire whether it will be necessary to give notice of election of state senators for odd numbered districts, at the coming general election.

Your inquiry is evidently based upon the language of section 24 of article 4 of the constitution of the State of Minnesota. (See sec. 24 above.)

The above is as section 24 reads since its amendment in 1877. It will be seen that by the terms of this section that representatives chosen at *such election* (being the general election of 1878), or at any election thereafter, shall hold their office for the term of two years; and the senators chosen at such election (being the general election of 1878), by districts designated as odd numbers were to hold their office for two years; and those chosen by even numbered districts, for the term of four years. And thereafter, that is, after *such election* (the election of 1878) senators shall be chosen for four years, except there shall be an entire new election of senators at the election of representatives next succeeding each new apportionment.

It is difficult to see how but one construction can be placed upon this language. There are but two limitations placed upon a four years' term of state senators; one is that those chosen by odd numbered districts, at the election of 1878, shall hold for two years; another is, that a new election after an apportionment may result in shortening by two years the terms of all senators; if the apportionment is made at the first session after the election of senators. The first is a positive limitation. The other is a possible limitation which may apply after the election; as to the election itself and the term for which they are to be elected, the language is too plain to admit of any question. After providing for the election of 1878, it is provided: "And thereafter senators shall be chosen for four years," except \* \* \*

It may be urged that this section provided that as to the election of 1878, one-half should hold office for four years and one-half for two years; thus providing for one-half the Senate going out of office every two years, and that it was desirable that this order should be maintained. Whatever may be said as to the wisdom of such policy, we are obliged to interpret the law as we find it; for, where a law is plain and unambiguous, we must assume that that was intended which the words used clearly import.

I have the honor therefore to advise you that in my opinion all the senators elected in 1890 were elected for the term of four years. Very truly yours,

MOSES E. CLAPP, *Attorney General*.

<sup>b</sup> G. L. 1869, ch. 93.

<sup>c</sup> Chap. 46, General Laws of 1889, "An act to establish a probate code," is not obnoxious to the constitution. 47 Minn. 575.



faithfully and impartially to discharge the duties devolving upon him as such member or officer.

SEC. 30. In all elections to be made by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SEC. 31. The legislature shall never authorize any lottery or the sale of lottery tickets.

<sup>a</sup> SEC. 32. Any law providing for the repeal or amendment of any law or laws heretofore or hereafter enacted, which provides that any railroad company now existing in this State or operating its road therein, or which may be hereafter organized, shall, in lieu of all other taxes and assessments upon their real estate, roads, rolling stock, and other personal property, at and during the time and periods therein specified, pay into the treasury of this State a certain percentage therein mentioned of the gross earnings of such railroad companies now existing or hereafter organized, shall, before the same shall take effect or be in force, be submitted to a vote of the people of the State, and be adopted and ratified by a majority of the electors of the State voting at the election at which the same shall be submitted to them.

<sup>b</sup> SEC. 32. All lands donated to the State of Minnesota for the purpose of internal improvement, under the eighth section of the act of Congress, approved September fourth, eighteen hundred and forty-one, being "An act to appropriate the proceeds of the sale of the public lands, and to grant preemption rights," shall be appraised and sold, in the same manner and by the same officers, and the minimum price shall be the same as is provided by law for the appraisement and sale of the school lands, under the provisions of title one (1), chapter thirty-eight, of the General Statutes, except the modifications hereinafter mentioned. All moneys derived from the sales of said lands shall be invested in the bonds of the United States, or of the State of Minnesota issued since 1860; and the moneys so invested shall constitute the Internal Improvement Land Fund of the State. All moneys received by the county treasurer under the provisions of title one (1), chapter thirty-eight (38), aforesaid, derived from the sale of internal improvement lands, shall be held at all times subject to the order and direction of the state treasurer, for the benefit of the fund to which it belongs; and on the fifteenth day of June in each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay over to the said state treasurer all moneys received on account of such fund.

The bonds purchased in accordance with this amendment shall be transferable only upon the order of the governor, and on each bond shall be written "Minnesota Internal Improvement Land Fund of the State, transferable only on the order of the governor."

The principal sum from all sales of internal improvement lands shall not be reduced by any charges or costs of officers, by fees, or by any other means whatever; and section fifty (50), of title one (1), of chapter thirty-eight (38), of the General Statutes, shall not be applicable to the provisions of this amendment, and wherever the

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<sup>a</sup> This section was adopted Nov. 8, 1871.

<sup>b</sup> This section was adopted Nov. 5, 1872.

words "school lands" are used in said title, it shall read as applicable to this amendment, "Internal Improvement Lands."

The moneys belonging to the Internal Improvement Land Fund shall not be appropriated for any purpose whatever until the enactment for that purpose shall have been approved by a majority of the electors of the State voting at the annual general election following the passage of the act.<sup>a</sup>

The force of this amendment shall be to authorize the sale of the internal improvement lands, without further legislative enactment.

<sup>b</sup> SEC. 33. In all cases when a general law can be made applicable, no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law regulating the affairs of, or incorporating, erecting or changing the lines of, any county, city, village, township, ward or school district, or creating the offices, or prescribing the powers and duties of the officers of, or fixing or relating to the compensation, salary or fees of the same, or of the mode of election or appointment thereto, authorizing the laying out, opening, altering, vacating or maintaining roads, highways, streets or alleys; remitting fines, penalties or forfeitures; regulating the powers, duties and practice of justices of the peace, magistrates and constables; changing the names of persons, places, lakes or rivers; for opening and conducting of elections, or fixing or changing the places of voting; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights upon minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; locating or changing county seats; regulating the management of public schools, the building or repairing of schoolhouses, and the raising of money for such purposes; exempting property from taxation, or regulating the rate of interest on money; creating corporations, or amending, renewing, extending or explaining the charters thereof; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever, or authorizing public taxation for a private purpose. *Provided, however,* That the inhibitions of local or special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same.

<sup>c</sup> SEC. 34. The legislature shall provide general laws for the transaction of any business that may be prohibited by section one (1) of

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<sup>a</sup> By chapter 71, G. L. of 1881, extra session, the proceeds of this fund were pledged to the payment of Minnesota State railroad adjustment bonds, and the law was voted upon and approved at the general election of 1884, by 31,011 votes in favor and 13,589 votes against.

<sup>b</sup> Adopted Nov. 8, 1892.

<sup>c</sup> Adopted Nov. 8, 1881. This section having been a part of the amendment, regulating special legislation, adopted in 1881, should properly have been included in the substitution of the amendment of 1892; but as it was not referred to by section, in the law submitted to the people, it must perforce remain in the constitution, however inapplicable its reading.

this amendment, and all such laws shall be uniform in their operation throughout the State.

<sup>a</sup> SEC. 35. Any combinations of persons, either as individuals or as members or officers of any corporation, to monopolize the markets for food products in this State, or to interfere with, or restrict the freedom of, such markets, is hereby declared to be a criminal conspiracy, and shall be punished in such manner as the legislature may provide.

<sup>b</sup> SEC. 36. Any city or village in this State may frame a charter for its own government as a city consistent with and subject to the laws of this State, as follows: The legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders, who shall be and for the past five years shall have been qualified voters thereof, to be appointed by the district judges of the judicial district in which the city or village is situated, as the legislature may determine, for a term in no event to exceed six years, which board shall, within six months after its appointment, return to the chief magistrate of said city or village a draft of said charter, signed by the members of said board, or a majority thereof. Such charter shall be submitted to the qualified voters of such city or village at the next election thereafter, and if four-sevenths of the qualified voters voting at such election shall ratify the same it shall, at the end of thirty days thereafter, become the charter of such city or village as a city, and supersede any existing charter and amendments thereof; *provided*, that in cities having patrol limits now established, such charter shall require a three-fourths majority vote of the qualified voters voting at such election to change the patrol limits now established.

Before any city shall incorporate under this act the legislature shall prescribe by law the general limits within which such charter shall be framed. Duplicate certificates shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of said city or village and authenticated by its corporate seal. One of said certificates shall be deposited in the office of secretary of state, and the other, after being recorded in the office of the register of deeds for the county in which such city or village lies, shall be deposited among the archives of such city or village, and all courts shall take judicial notice thereof. Such charter so deposited may be amended by proposal therefor made by a board of fifteen commissioners aforesaid, published for at least thirty days in three newspapers of general circulation in such city or village, and accepted by three-fifths of the qualified voters of such city or village voting at the next election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State of Minnesota. The legislature may prescribe the duties of the commission relative to submitting amendments of charter to the vote of the people and shall provide that upon application of five per cent of the legal voters of any such city or village, by written petition, such commission shall submit to the vote of the people proposed amendments to such charter set forth in said petition. The board of freeholders above provided for shall be permanent, and all the vacancies by death, disability to perform duties, resignation or removal from the corporate limits, or expiration of term of office,

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<sup>a</sup> Adopted Nov. 6, 1888.

<sup>b</sup> Section 36 adopted Nov. 8, 1898.

shall be filled by appointment in the same manner as the original board was created, and said board shall always contain its full complement of members.

It shall be a feature of all such charters that there shall be provided, among other things, for a mayor or chief magistrate, and a legislative body of either one or two houses; if of two houses, at least one of them shall be elected by general vote of the electors.

In submitting any such charter or amendment thereto to the qualified voters of such city or village, any alternate section or article may be presented for the choice of the voters, and may be voted on separately without prejudice to other articles or sections of the charter or any amendments thereto.

The legislature may provide general laws relating to affairs of cities, the application of which may be limited to cities of over fifty thousand inhabitants, or to cities of fifty and not less than twenty thousand inhabitants, or to cities of twenty and not less than ten thousand inhabitants, or to cities of ten thousand inhabitants or less, which shall apply equally to all such cities of either class, and which shall be paramount while in force to the provisions relating to the same matter included in the local charter herein provided for. But no local charter, provision or ordinance passed thereunder shall supersede any general law of the State defining or punishing crimes or misdemeanors.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor, treasurer and attorney general who shall be chosen by the electors of the State.<sup>a</sup>

<sup>b</sup> SEC. 2. The returns of every election for the officers named in the foregoing section shall be made to the secretary of state, who shall call to his assistance two or more of the judges of the supreme court, and two disinterested judges of the district courts of the State, who shall constitute a board of canvassers, who shall open and canvass said returns and declare the result within three days after such canvass.

SEC. 3. The term of office for the governor and lieutenant governor shall be two years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five (25) years, and shall have been a *bona fide* resident of the State for one year next preceding his election. Both shall be citizens of the United States.

SEC. 4. The governor shall communicate by message to each session of the legislature such information touching the state and condition of the country as he may deem expedient. He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, suppress insurrection and repel invasion. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of

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<sup>a</sup> An executive officer of the state is not subject to the control or interference of the judiciary in the performance of duties belonging to him as an executive officer, and no act done, or threatened to be done, by him in his official capacity can be brought under judicial control or interference by mandamus or injunction, even when the act is purely ministerial. 29 Minn. 555.

<sup>b</sup> As amended Nov. 6, 1877.

their respective offices;<sup>a</sup> and he shall have power, in conjunction with the board of pardons, of which the governor shall be *ex officio* a member, and the other members of which shall consist of the attorney general of the State of Minnesota and the chief justice of the supreme court of the State of Minnesota, and whose powers and duties shall be defined and regulated by law, to grant reprieves and pardons after conviction for offenses against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint a state librarian and notaries public, and such other officers as may be provided by law. He shall have power to appoint commissioners to take the acknowledgment of deeds or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the legislature, under such rules and limitations as are in this Constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of secretary of state, treasurer, auditor, attorney general, and such other state and district offices as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

SEC. 5. The official term of the secretary of state, treasurer and attorney general shall be two (2) years. The official term of the state auditor shall be four (4) years, and each shall continue in office until his successor shall have been elected and qualified. The further duties and salaries of said executive officers shall each be prescribed by law.<sup>b</sup>

SEC. 6. The lieutenant governor shall be *ex officio* president of the Senate; and in case a vacancy shall occur, from any cause whatever, in the office of governor, he shall be governor during such vacancy. The compensation of lieutenant governor shall be double the compensation of a state senator. Before the close of each session of the Senate they shall elect a president *pro tempore*, who shall be lieutenant governor in case a vacancy should occur in that office.

\*<sup>c</sup> SEC. 7. The term of each of the executive officers named in this article shall commence on taking the oath of office on or after the first day of May, 1858, and continue until the first Monday of January, 1860, except the auditor, who shall continue in office till the first Monday of January, 1861, and until their successors shall have been duly elected and qualified; and the same above mentioned time for qualification and entry upon the duties of their respective offices shall extend and apply to all other officers elected under the State Constitution, who have not already taken the oath of office, and commenced the performance of their official duties.

SEC. 8. Each officer created by this article shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

\* SEC. 9. Laws shall be passed at the first session of the legislature after the State is admitted into the Union to carry out the provisions of this article.

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\* Obsolete.

<sup>a</sup> Adopted Nov. 3, 1896.

<sup>b</sup> Adopted Nov. 6, 1883.

<sup>c</sup> This section was adopted April 15, 1858.



## ARTICLE VI

## JUDICIARY

**SECTION 1.** The judicial power of the State shall be vested in a supreme court, district courts, courts of probate, justices of the peace, and such other courts, inferior to the supreme court, as the legislature may from time to time establish by a two-thirds vote.

**SEC. 2.** The supreme court shall consist of one chief justice and two associate justices, but the number of the associate justices may be increased to a number not exceeding four, by the legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the legislature may direct, at the seat of government, and the legislature may provide, by a two-thirds vote, that one term in each year shall be held in each or any judicial district. It shall be the duty of such court to appoint a reporter of its decisions. There shall be chosen, by the qualified electors of the State, one clerk of the supreme court, who shall hold his office for the term of four years, and until his successor is duly elected and qualified, and the judges of the supreme court, or a majority of them, shall have the power to fill any vacancy in the office of clerk of the supreme court until an election can be regularly had.<sup>b</sup>

**SEC. 3.** The judges of the supreme court shall be elected by the electors of the State at large, and their term of office shall be six years, and until their successors are elected and qualified.

[Whenever all or a majority of the judges of the supreme court shall, from any cause, be disqualified from sitting in any case in said court, the governor, or, if he shall be interested in the result of such case, then the lieutenant governor, shall assign judges of the district court of the State, who shall sit in such case in place of such disqualified judges, with all the powers and duties of judges of the supreme court.]<sup>c</sup>

**SEC. 4.** The State shall be divided by the legislature into judicial districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each judicial district, one or more judges, as the legislature may prescribe, shall be elected by the electors thereof, whose term of office shall be six years, and each of said judges shall severally have and exercise the powers of the court, under such limitations as may be prescribed by law. Every district judge shall, at the time of his election, be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office. In case any court of common pleas heretofore established shall be abolished, the judge of said court may be constituted by the legislature

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<sup>a</sup> The provision of this section, vesting the judicial powers of the state in the courts specified therein, is not infringed by the statute authorizing the appointment of and trial of cases before referees, who are merely subordinate officers of the courts, acting only in an intermediate capacity. 5 Minn. 78.

<sup>b</sup> The supreme court shall consist of one chief justice and four associate justices. G. L. 1881, ch. 141.

<sup>c</sup> Paragraph in brackets added Nov. 7, 1876.

<sup>d</sup> This section was adopted Nov. 5, 1875.



one of the judges of the district court of the district wherein such court has been so established for a period not exceeding the unexpired term for which he was elected.

SEC. 5. The district courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The legislature may provide by law that the judge of one district may discharge the duties of judge of any other district not his own, when convenience or the public interest may require it.

SEC. 6. The judges of the supreme and district courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the legislature; which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

SEC. 7. There shall be established in each organized county in the State a probate court, which shall be a court of record, and be held at such time and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the voters of the county for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office; and his compensation shall be provided by law. He may appoint his own clerk where none has been elected; but the legislature may authorize the election, by the electors of any county, of one clerk or register of probate for such county, whose powers, duties, term of office and compensation shall be prescribed by law. A probate court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

SEC. 8. The legislature shall provide for the election of a sufficient number of justices of the peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law. *Provided*, That no justice of the peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment, or a fine over one hundred dollars, nor in any cause involving the title to real estate.

SEC. 9. All judges other than those provided for in this Constitution shall be elected by the electors of the judicial district, county, or city, for which they shall be created, not for a longer term than seven years.

SEC. 10. In case the office of any judge become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 11. The justices of the supreme court and the district courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office under this Constitution, except a judicial office given by the legislature or the people, during their continuance in office, shall be void.

SEC. 12. The legislature may at any time change the number of judicial districts or their boundaries, when it shall be deemed expedient; but no such change shall vacate the office of any judge.

SEC. 13. There shall be elected in each county where a district court shall be held, one clerk of said court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

SEC. 14. Legal pleadings and proceedings in the courts of this State shall be under the direction of the legislature. The style of all process shall be, "The State of Minnesota," and all indictments shall conclude, "against the peace and dignity of the State of Minnesota."

SEC. 15. The legislature may provide for the election of one person in each organized county in this State, to be called a court commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a judge of the district court at chambers; or the legislature may, instead of such election, confer such power and jurisdiction upon the judges of probate in the State.

## ARTICLE VII

### ELECTIVE FRANCHISE

<sup>a</sup> SECTION 1. What persons are entitled to vote:

Every male person of the age of twenty-one (21) years or upwards belonging to either of the following classes who has resided in this State six (6) months next preceding any election shall be entitled to vote at such election in the election district of which he shall at the time have been for thirty (30) days a resident, for all officers that now are, or hereafter may be, elective by the people.

*First*—Citizens of the United States who have been such for the period of three (3) months next preceding any election.

*Second*—Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

*Third*—Persons of Indian blood residing in this State, who have adopted the language, customs and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

SEC. 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights; and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this State or of the United States; nor while a student in any seminary of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison.

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<sup>a</sup> Section 1, adopted Nov. 3, 1896.

SEC. 4. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

SEC. 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

SEC. 7. Every person who by the provisions of this article shall be entitled to vote at any election shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this Constitution, or the Constitution and laws of the United States.<sup>a</sup>

<sup>b</sup> SEC. 8. Women may vote for school officers and members of library boards, and shall be eligible to hold any office pertaining to the management of schools or libraries.

Any woman of the age of twenty-one (21) years and upward and possessing the qualifications requisite to a male voter may vote at any election held for the purpose of choosing any officer of schools or any members of library boards, or upon any measure relating to schools or libraries, and shall be eligible to hold any office pertaining to the management of schools and libraries.<sup>c</sup>

<sup>d</sup> SEC. 9. The official year for the State of Minnesota shall commence on the first Monday in January in each year, and all terms of office shall terminate at that time; and the general election shall be held on the first Tuesday after the first Monday in November. The first general election for State and county officers, except judicial officers, after the adoption of this amendment, shall be held in the year A. D. one thousand eight hundred and eighty-four (1884), and thereafter the general election shall be held biennially. All State, county or other officers elected at any general election, whose terms of office would otherwise expire on the first Monday of January, A. D. one thousand eight hundred and eighty-six (1886), shall hold and continue in such offices, respectively, until the first Monday in January, one thousand eight hundred and eighty-seven (1887).

## ARTICLE VIII

### SCHOOL FUNDS, EDUCATION AND SCIENCE

<sup>e</sup> SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the

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<sup>a</sup> Held restrictive and to disqualify a person from holding an elective office who was not eligible at the date of his election, though eligible at the beginning of the term. 45 Minn. 309.

<sup>b</sup> Adopted Nov. 8, 1898.

<sup>c</sup> The right to vote on district school matters was granted by chapter 71, General Laws of 1878; and the right to vote for county school superintendents was granted by chapter 204, General Laws of 1885.

<sup>d</sup> Adopted Nov. 6, 1883.

<sup>e</sup> This section, which directs the establishment of a general and uniform system of public schools, does not prohibit the legislature from providing public schools other than those included in the general system, or creating exceptional districts, to meet particular and exceptional cases; and the exception from the operation of a general law relating to public schools of independent school districts, and schools specially provided for, does not violate the constitutional provision. 25 Minn. 1.

duty of the legislature to establish a general and uniform system of public schools.

SEC. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township of this State shall remain a perpetual school fund to the State; and not more than one-third ( $\frac{1}{3}$ ) of said lands may be sold in two (2) years, one-third ( $\frac{1}{3}$ ) in five (5) years, and one-third ( $\frac{1}{3}$ ) in ten (10) years; but the lands of the greatest valuation shall be sold first; *provided*, that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands or other property, granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school land shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township, between the ages of five and twenty-one years; and shall be faithfully applied to the specific objects of the original grants or appropriations.

[Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds which have heretofore arisen or which may hereafter arise from the sale or other disposition of such lands, or the income from such lands accruing in any way before the sale or disposition thereof, in interest-bearing bonds of the United States, or of the State of Minnesota, issued after the year one thousand eight hundred and sixty (1860), or of such other state as the legislature may, by law, from time to time direct.] <sup>a b</sup>

All swamp lands now held by the State, or that may hereafter accrue to the State, shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same less one-third ( $\frac{1}{3}$ ), as is provided by law for the appraisement and sale of the school lands under the provisions of title one (1) of chapter thirty-eight (38) of the General Statutes. The principal of all funds derived from sales of swamp lands, as aforesaid, shall forever be preserved inviolate and undiminished. One-half ( $\frac{1}{2}$ ) of the proceeds of said principal shall be appropriated to the common school fund of the State. The remaining one-half ( $\frac{1}{2}$ ) shall be appropriated to the educational and charitable institutions of the State in the relative ratio of cost to support said institutions.<sup>c</sup>

SEC. 3. The legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the State.

[But in no case shall the moneys derived as aforesaid, or any portion thereof, or any public moneys or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.] <sup>d</sup>

SEC. 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All

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<sup>a</sup> Paragraph in brackets adopted Nov. 5, 1875.

<sup>b</sup> Ch. 102, G. L. of 1885.

<sup>c</sup> Adopted Nov. 8, 1881.

<sup>d</sup> Paragraph in brackets adopted Nov. 6, 1877.

the rights, immunities, franchises and endowments heretofore granted or conferred are hereby perpetuated unto the said university; and all lands which may be granted hereafter by Congress, or other donations for said university purposes, shall vest in the institution referred to in this section.

<sup>a</sup> SEC. 5. The permanent school funds of the State may be loaned upon interest at the rate of five (5) per cent per annum to the several counties or school districts of the State, to be used in the erection of county or school buildings. No such loan shall be made until approved by a board consisting of the governor, the state auditor and the state treasurer, who are hereby constituted an investment board for the purpose of the loans hereby authorized; nor shall any such loan be for an amount exceeding three (3) per cent of the last preceding assessed valuation of the real estate of the county or school district receiving the same. The state auditor shall annually, at the time of certifying the state tax to the several county auditors, also certify to each auditor to whose county, or to any of the school districts of whose county, any such loan shall have been made, the tax necessary to be levied to meet the accruing interest or principal of any such loan, and it shall be the duty of every such county auditor forthwith to levy and extend such tax upon all the taxable property of his county, or of the several school districts, respectively, liable for such loans—as the case may be—and in all such cases the tax so assessed shall be fifty (50) per cent in excess of the amount actually necessary to be raised on account of such accruing principal or interest. It shall be levied, collected and paid into the county and state treasuries in the same manner as state taxes, and any excess collected over the amount of such principal or interest accruing in any given year shall be credited to the general funds of the respective counties or school districts. No change of the boundaries of any school district after the making of any such loan shall operate to withdraw any property from the taxation herein provided for; nor shall any law be passed extending the time of payment of any such principal or interest, or reducing the rate of such interest, or in any manner waiving or impairing any rights of the State in connection with any such loan. Suitable laws, not inconsistent with this amendment, may be passed by the legislature for the purpose of carrying the same into effect.<sup>b</sup>

<sup>c</sup> SEC. 6. The permanent school and university fund of this state may be invested in the bonds of any county, school district, city, town or village of this state, but no such investment shall be made until approved by the board of commissioners designated by law to regulate the investment of the permanent school fund and the permanent university fund of this state; nor shall such loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed fifteen (15) per cent of the assessed valuation of the taxable real property of the county, school district, city, town or village issuing such bonds; nor shall such loans or indebtedness be made at a lower rate of interest than three (3)

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<sup>a</sup> Adopted Nov. 2, 1886.

<sup>b</sup> Chapter 193, G. L. of 1887, made the necessary provision for giving effect to this section.

<sup>c</sup> Adopted Nov. 8, 1904.



per cent per annum, nor for a shorter period than five (5) years, nor for a longer period than twenty (20) years, and no change of the town, school district, city, village, or of county lines shall relieve the real property in such town, school district, county, village or city in this state at the time of the issuing of such bonds from any liability for taxation to pay such bonds.

## ARTICLE IX

### FINANCES OF THE STATE, AND BANKS AND BANKING

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation and be equalized and uniform throughout the State; *provided*, that the legislature may, by general law or special act, authorize municipal corporations to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, or both, without regard to a cash valuation, and in such manner as the legislature may prescribe. And, *provided further*, that for the purpose of defraying the expenses of laying water pipes and supplying any city or municipality with water, the legislature may, by general or special law, authorize any such city or municipality, having a population of five thousand (5,000) or more, to levy an annual tax or assessment upon the lineal foot of all lands fronting on any water main or water pipe laid by such city or municipality within corporate limits of said city for supplying water to the citizens thereof without regard to the cash value of such property, and to empower such city to collect any such tax, assessments or fines, or penalties for failure to pay the same, or any fine or penalty for any violation of the rules of such city or municipality in regard to the use of water, or for any water rate due for the same.<sup>a</sup> And, *provided further*, that there may be by law levied and collected a tax upon all inheritances, devises, bequests, legacies and gifts of every kind and description above a fixed and specified sum, of any and all natural persons and corporations. Such a tax above such exempted sum may be uniform, or it may be graded or progressive, but shall not exceed a maximum tax of five per cent.<sup>b</sup>

SEC. 2. The legislature shall provide for an annual tax sufficient to defray the estimated ordinary expenses of the State for each year; and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. [But no law levying a tax, or making other provisions for the payment of interest or principal of the bonds denominated "Minnesota State Railroad Bonds," shall take effect or be in force until such law shall have been submitted to a vote of the people of

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<sup>a</sup> Adopted Nov. 2, 1869, and Nov. 8, 1881.

<sup>b</sup> Adopted Nov. 6, 1894.



the State, and adopted by a majority of the electors of the State voting upon the same.] <sup>a</sup>

SEC. 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation. <sup>b</sup>

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description, of all banks and all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

<sup>c</sup> SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never, in the aggregate, exceed \$250,000; every such debt shall be authorized by law, for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the legislature, to be recorded by yeas and nays on the journals of each house respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed or diminished, until the principal and interest of such debt shall have been wholly paid. The State shall never contract any debts for works of internal improvements, or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to specific purposes, and in such case the State shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 6. All debts authorized by the preceding section shall be contracted by loan on State bonds of amounts not less than five hundred dollars each on interest, payable within ten years after the final passage of the law authorizing such debt; and such bonds shall not be sold by the State under par. A correct registry of all such bonds shall be kept by the treasurer, in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable.

SEC. 7. The State shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the

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<sup>a</sup> These amendments were adopted Nov. 6, 1860. By Chapter 71, G. L. of 1881 (extra session), the question of paying the state railroad bonds was submitted to a vote of the people, and the law was duly ratified by a vote, 82,435 in favor, and 24,526 against.

<sup>b</sup> G. L. of 1878, Ch. 1, makes this exemption \$100.

<sup>c</sup> Amended April 14, 1858.

cases and in the manner provided in the fifth and sixth sections of this article.

SEC. 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

SEC. 9. No money shall ever be paid out of the treasury of this State except in pursuance of an appropriation by law.

SEC. 10. The credit of the State shall never be given or loaned in aid of any individual, association or corporation. [Nor shall there be any further issue of bonds denominated "Minnesota State Railroad Bonds," under what purports to be an amendment to section ten (10) of article nine (9) of the Constitution, adopted April fifteenth, eighteen hundred and fifty-eight, which is hereby expunged from the Constitution, saving, excepting and reserving to the State, nevertheless, all rights, remedies, and forfeitures accruing under said amendment.] <sup>a</sup>

SEC. 11. There shall be published by the treasurer, in at least one newspaper printed at the seat of government, during the first week in January in each year, and in the next volume of the acts of legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purpose and to whom paid, and by what law authorized; and also of all moneys received, and by what authority and from whom.

<sup>b</sup> SEC. 12. Suitable laws shall be passed by the legislature for the safe-keeping, transfer and disbursements of the state and school funds; and all officers and other persons charged with the same or any part of the same, or the safe keeping thereof, shall be required to give ample security for all moneys and funds of any kind received by them; to make forthwith and keep an accurate entry of each sum received, and of each payment and transfer; and if any of said officers or other persons shall convert to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the State of Minnesota; or shall deposit in banks or with any person or persons, or exchange for other funds or property, any portion of the funds of the State or of the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid State and school funds, or either of the same, as shall thus be taken, or loaned, or deposited or exchanged, and shall be a felony; and any failure to pay over, produce or account for the State school funds, or any part of the same entrusted to such officer or persons as by law required on demand, shall be held and be taken to be *prima facie* evidence of such embezzlement.

SEC. 13. The legislature may, by a two-thirds vote, pass a general banking law, with the following restrictions and requirements, viz:

*First*—The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

*Second*—The legislature shall provide by law for the registry of all

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<sup>a</sup> The clause in brackets was adopted Nov. 6, 1860.

<sup>b</sup> Adopted Nov. 4, 1873.

bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie; and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

*Third*—The stockholders in any corporation and joint association for banking purposes, issuing bank notes, shall be individually liable in an amount equal to double the amount of stock owned by them for all the debts of such corporation or association; and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

*Fourth*—In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

*Fifth*—Any general banking law which may be passed in accordance with this article shall provide for recording the names of all stockholders in such corporation, the amount of stock held by each, the time of transfer, and to whom transferred.

<sup>a</sup> SEC. 14. (a) For the purpose of erecting and completing buildings for a hospital for the insane, a deaf, dumb and blind asylum, the state prison, the legislature may by law increase the public debt of the State to an amount not exceeding \$250,000, in addition to the public debt already heretofore authorized by the Constitution; and for that purpose may provide by law for issuing and negotiating the bonds of the State, and appropriate the money only for the purpose aforesaid; which bonds shall be payable in not less than ten nor more than thirty years from the date of the same, at the option of the State.

<sup>a</sup> SEC. 14. (b) The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds or to become indebted in any manner to aid in the construction or equipment of any or all railroads to any amount that shall exceed ten per centum of the value of the taxable property within such county, township, city, or other municipal corporation; the amount of such taxable property to be ascertained and determined by the last assessment of said property made for the purpose of state and county taxation previous to the incurring of such indebtedness, Nov. 5, 1872.

<sup>b</sup> SEC. 15. The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds, or to become indebted in any manner, to aid in the construction or equipment of any or all railroads to any amount that shall exceed five (5) per centum of the value of the taxable property within such county, township, city, or other municipal corporation. The amount of such taxable property to be ascertained and determined by the last assessment of said property made, for the purpose of state and county taxation, previous to the incurring of such indebtedness.

<sup>c</sup> SEC. 16. For the purpose of lending aid in the construction and improvement of public highways and bridges, there is hereby created a fund to be known as the "State Road and Bridge Fund." Said

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<sup>a</sup> Sections 14 (a) and 14 (b) were adopted Nov. 5, 1872.

<sup>b</sup> Sec. 15 was adopted Nov. 4, 1879.

<sup>c</sup> Sec. 16 was adopted Nov. 8, 1898.

fund shall include all moneys accruing from the income derived from investments in the internal improvement land fund, or that may hereafter accrue to said fund, and shall also include all funds accruing to any state road and bridge fund, however provided.

The legislature is authorized to add to such fund for the purpose of constructing or improving roads and bridges of this State, by providing, in its discretion, for an annual tax levy upon the property of this State of not to exceed in any year one-twentieth (1-20) of one (1) mill on all the taxable property within the State.

The legislature is also authorized to provide for the appointment, by the governor of the State, of a board to be known as the "State Highway Commission," consisting of three (3) members, who shall perform such duties as shall be prescribed by law without salary or compensation other than personal expenses.

Such commission shall have general superintendence of the construction of State roads and bridges and shall use such fund in the construction thereof and distribute the same in the several counties in the State upon an equitable basis. *Provided further*, that no county shall receive in any year more than three (3) per cent or less than one-half ( $\frac{1}{2}$ ) of one (1) per cent of the total fund thus provided and expended during such year; and, *provided further*, that no more than one-third ( $\frac{1}{3}$ ) of such fund accruing in any year shall be expended for bridges, and in no case shall more than one-third ( $\frac{1}{3}$ ) of the cost of constructing or improving any road or bridge be paid by the State from such fund.

<sup>a</sup> Sec. 17. The legislature may impose, or provide for the imposition of, upon the property within the State of any and all owners or operators, whether corporate or individual, or otherwise, of any and all sleeping, parlor and drawing room cars, or any or either of the same, which run in, into or through this State; also upon the property within this state of any and all telegraph and telephone companies, or owners, whose lines are in, or extend in, into or through this State; also upon the property within this State of all express companies, or owners, or any or either of the same, doing business in this State; also upon the property within this State of all domestic insurance companies of this State of any kind; also upon the property within this State of all owners or operators of any and all mines or of mineral ores situated in this State; also upon the property within this State of all boom companies or owners, and of all ship builders or owners doing business in this State or having a port therein; *provided*, that this act shall not apply to property owned by railroad companies, their lands and other property; and upon the property of either or any of such companies or owners a tax, as uniform as reasonably may be with the taxes imposed upon similar property in said State, or upon the earnings thereof within this State, but may be graded or progressive, or both, and in providing for such tax, or in providing for ascertaining the just and true value of such property, it shall be competent for the legislature, in either or all of such cases, to impose such tax, upon any or all property thereof within this State, and in either case by taking as the basis of such imposition the proportionate business, earnings, mileage or quantity of production

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<sup>a</sup> Sec. 17 was adopted Nov. 3, 1896.

or property now or hereafter existing of any such companies, persons or owners, transacted or existing in this State, in relation to the entire business, mileage or quantity of production or property of such companies, persons or owners as aforesaid; or in such other manner, or by such other method, as the legislature may determine; but the proceeds of such taxes upon mining property shall be distributed between the State and the various political subdivisions thereof wherein the same is situated in the same proportion as the proceeds of taxes upon real property are distributed; *provided further*, that nothing in this act contained shall operate to authorize the assessment or taxation of land or ordinary business blocks or property owned by any such corporation, person, firm or company, except in the manner provided by the ordinary methods of taxation.

## ARTICLE X

### OF CORPORATIONS HAVING NO BANKING PRIVILEGES

SECTION 1. The term "Corporation," as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges, and all corporations shall have the right to sue, and shall be liable to be sued in all courts, in like manner as natural persons.

SEC. 2. No corporations shall be formed under special acts, except for municipal purposes.

SEC. 3. Each stockholder in any corporation [excepting those organized for the purpose of carrying on any kind of manufacturing or mechanical business shall be liable to the amount of stock held or owned by him.] <sup>a b c</sup>

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance of the provisions of this section, shall be bound to carry the mineral, agricultural and other productions of manufacturers on equal and reasonable terms.

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<sup>a</sup> The clause in brackets adopted Nov. 5, 1872.

<sup>b</sup> The exception in favor of manufacturing corporations, in article 10, section 3, imposing individual liability upon stockholders for the debts of a corporation, embraces only those corporations which are organized for the purpose, as stated in their articles of association, of carrying on an exclusively manufacturing business; and if the purposes, as stated in the articles, are to carry on both a manufacturing business and also other kinds of business, not properly incidental to or necessarily connected with the manufacturing business, the fact that the corporation never actually engaged in such other kinds of business will not bring it within the exception referred to. 44 Minn. 409.

<sup>c</sup> Article 10, section 3, providing that each stockholder in any corporation, excepting those organized for the purpose of carrying on any kind of manufacturing or mechanical business, "shall be liable to the amount of stock held or owned by him," does not merely make a stockholder liable to pay for his stock at its face value, but imposes a liability to the amount of stock held, in addition to the liability for the stock. 50 N. W. 1110.



## ARTICLE XI

## COUNTIES AND TOWNSHIPS

SECTION 1. The legislature may from time to time establish and organize<sup>a</sup> new counties; but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county lines in counties already organized, or for removing county seats, shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred (400) square miles.

SEC. 2. The legislature may organize any city into a separate county, when it has attained a population of 20,000 inhabitants, without reference to geographical extent, when a majority of the electors of the county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

SEC. 3. Laws may be passed providing for the organization for municipal and other town purposes, of any congressional or fractional townships in the several counties in the State, *provided* that when a township is divided by county lines or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships or parts of townships for the purposes aforesaid.

SEC. 4. Provision shall be made by law for the election of such county or township officers as may be necessary.

SEC. 5. Any county and township organization shall have such powers of local taxation as may be prescribed by law.

SEC. 6. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 7.<sup>b</sup> That the county of Manomin is hereby abolished, and that the territory heretofore comprising the same shall constitute and be a part of the county of Anoka.

## ARTICLE XII

## OF THE MILITIA

SECTION 1. It shall be the duty of the legislature to pass such laws for the organization, discipline and service of the militia of the State as may be deemed necessary.

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<sup>a</sup> The establishing of a county is the setting apart of the territory to be in future organized as a political community or quasi corporation for political purposes, while the organization is the vesting the people of such territory with such corporate rights and powers; and, until authorized by the legislature, the people of a county established but not organized have no right to act as an organized county. 25 Minn. 215.

<sup>b</sup> Adopted Nov. 2, 1860.



## ARTICLE XIII

## IMPEACHMENT AND REMOVAL FROM OFFICE

SECTION 1. The governor, secretary of state, treasurer, auditor, attorney general, and the judges of the supreme and district courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 2. The legislature of this State may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

SEC. 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 4. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court.

SEC. 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

## ARTICLE XIV

## AMENDMENTS TO THE CONSTITUTION

SECTION 1.<sup>a</sup> Whenever a majority of both houses of the legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection at any general election, and if it shall appear, in a manner to be provided by law, that a majority of all the electors voting at said election shall have voted for and ratified such alterations or amendments, the same shall be valid to all intents and purposes as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this Constitution, they shall recommend to the electors to vote at the next general election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

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<sup>a</sup> Adopted Nov. 8, 1898.

## ARTICLE XV

## MISCELLANEOUS SUBJECTS

SECTION 1. The seat of government of the State shall be at the city of St. Paul, but the legislature, at their first or any future session, may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government to the State; and in the event of the seat of government being removed from the city of St. Paul to any other place in the State, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

SEC. 2. Persons residing on Indian lands within the State shall enjoy all the rights and privileges of citizens, as though they lived in any other portion of the State, and shall be subject to taxation.

SEC. 3. The legislature shall provide for a uniform oath or affirmation to be administered at elections, and no person shall be compelled to take any other or different form of oath to entitle him to vote.

SEC. 4. There shall be a seal of the State, which shall be kept by the secretary of state, and be used by him officially, and shall be called the great seal of the State of Minnesota, and shall be attached to all the official acts of the governor (his signature to acts and resolves of the legislature excepted) requiring authentication. The legislature shall provide for an appropriate device and motto for said seal.

SEC. 5. The territorial prison, as located under existing laws, shall, after the adoption of this Constitution, be and remain one of the state prisons of the State of Minnesota.

## SCHEDULE

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent state of government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Minnesota previous to its admission into the Union of the United States shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Minnesota not repugnant to this Constitution shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature.

SEC. 3. All fines, penalties or forfeitures accruing to the Territory of Minnesota shall inure to the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a permanent state government shall remain valid, and shall pass to and may be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court in his or their official capacity, shall pass to the governor or state authority and their successors

in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate of property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts, of whatsoever description, of the Territory of Minnesota, shall inure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the State of Minnesota as the same could have been by the Territory of Minnesota. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a territorial to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Minnesota, before the change from a territorial to a state government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Minnesota with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity which may be pending in any of the courts of the Territory of Minnesota, at the time of a change from a territorial to a state government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject matter thereof.

SEC. 5. All territorial officers, civil or military, now holding their offices under the authority of the United States, or of the Territory of Minnesota shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 6. The first session of the legislature of the State of Minnesota shall commence on the first Wednesday of December next, and shall be held at the capitol, in the city of St. Paul.

SEC. 7. The laws regulating the election and qualification of all district, county and precinct officers shall continue and be in force until the legislature shall otherwise provide by law.

SEC. 8. The president of this convention shall, immediately after the adjournment thereof, cause this Constitution to be deposited in the office of the governor of the Territory; and if, after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the State, then the governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against the said Constitution, to the president of the United States, to be by him laid before the Congress of the United States.

SEC. 9. For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States.

SEC. 10. For the purposes of the first election for members of the State Senate and House of Representatives, the State shall be divided into senatorial and representative districts, as follows, viz: First district, Washington county; Second district, Ramsey county; Third district, Dakota county; Fourth district, so much of Hennepin county as lies west of the Mississippi; Fifth district, Rice county; Sixth district, Goodhue county; Seventh district, Scott county; Eighth district, Olmsted county; Ninth district, Fillmore county; Tenth district, Houston county; Eleventh district, Winona county; Twelfth district, Wabasha county; Thirteenth district, Mower and Dodge

counties; Fourteenth district, Freeborn and Faribault counties; Fifteenth district, Steele and Waseca counties; Sixteenth district, Blue Earth and Le Sueur counties; Seventeenth district, Nicollet and Brown counties; Eighteenth district, Sibley, Renville and McLeod counties; Nineteenth district, Carver and Wright counties; Twentieth district, Benton, Stearns and Meeker counties; Twenty-first district, Morrison, Crow Wing and Mille Lacs counties; Twenty-second district, Cass, Pembina and Todd counties; Twenty-third district, so much of Hennepin county as lies east of the Mississippi; Twenty-fourth district, Sherburne, Anoka and Manomin counties; Twenty-fifth district, Chisago, Pine and Isanti counties; Twenty-sixth district, Buchanan, Carlton, St. Louis, Lake and Itasca counties.

SEC. 11. The counties of Brown, Stearns, Todd, Cass, Pembina and Renville, as applied in the preceding section, shall not be deemed to include any territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the territory of either, at the last session of the legislature.

SEC. 12. The senators and representatives at the first election shall be apportioned among the several senatorial and representative districts as follows, to wit:

	Senators.	Representatives.		Senators.	Representatives.
1st district.....	2	3	14th district.....	1	3
2d ".....	3	6	15th ".....	1	4
3d ".....	2	5	16th ".....	1	3
4th ".....	2	4	17th ".....	1	3
5th ".....	2	3	18th ".....	1	3
6th ".....	1	4	19th ".....	1	3
7th ".....	1	3	20th ".....	1	3
8th ".....	2	4	21st ".....	1	1
9th ".....	2	6	22d ".....	1	1
10th ".....	2	3	23d ".....	1	2
11th ".....	2	4	24th ".....	1	1
12th ".....	1	3	25th ".....	1	1
13th ".....	2	3	26th ".....	1	1
				37	80

SEC. 13. The returns from the Twenty-second district shall be made to and canvassed by the judges of election at the precinct of Otter Tail City.

SEC. 14. Until the legislature shall otherwise provide, the State shall be divided into judicial districts as follows, viz:

The counties of Washington, Chisago, Manomin, Anoka, Isanti, Pine, Buchanan, Carlton, St. Louis and Lake shall constitute the First judicial district.

The county of Ramsey shall constitute the Second judicial district.

The counties of Houston, Winona, Fillmore, Olmsted and Wabasha shall constitute the Third judicial district.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lacs, Itasca, Pembina, Todd and Cass shall constitute the Fourth judicial district.

The counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower and Freeborn shall constitute the Fifth judicial district.

The counties of Le Sueur, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown, and all other counties in the State not included within the other districts, shall constitute the Sixth judicial district.

SEC. 15. Each of the foregoing enumerated judicial districts may, at the first election, elect one prosecuting attorney for the district.

SEC. 16. Upon the second Tuesday, the thirteenth day of October, 1857, an election shall be held for members of the House of Representatives of the United States, governor, lieutenant governor, supreme and district judges, members of the legislature, and all other officers designated in this Constitution, and also for the submission of this Constitution to the people, for their adoption or rejection.

SEC. 17. Upon the day so designated as aforesaid every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this Constitution at such election, and also for or against the adoption of this Constitution.

SEC. 18. In voting for or against the adoption of this Constitution, the words, "For Constitution," or "Against Constitution," may be written or printed on the ticket of each voter, but no voter shall vote for or against this Constitution, on a separate ballot from that cast by him for officers to be elected at said election under this Constitution; and if upon the canvass of the vote so polled it shall appear that there was a greater number of votes polled for than against said Constitution, then this Constitution shall be deemed to be adopted as the Constitution of the State of Minnesota, and all the provisions and obligations of this Constitution, and of the schedule thereunto attached, shall thereafter be valid to all intents and purposes as the Constitution of said State.

SEC. 19. At said election the polls shall be opened, the elections held, returns made, and certificates issued, in all respects as provided by law for opening, closing and conducting elections and making returns of the same, except as hereinbefore specified, and excepting also that polls may be opened and elections held at any point or points in any of the counties where precincts may be established as provided by law, ten days previous to the day of election, not less than ten miles from the place of voting in any established precinct.

SEC. 20. It shall be the duty of the judges and clerks of election, in addition to the returns required by law for each precinct, to forward to the secretary of the Territory, by mail, immediately after the close of the election, a certified copy of the poll book containing the name of each person who has voted in the precinct and the number of votes polled for and against the adoption of this Constitution.

SEC. 21. The returns of said election for and against this Constitution, and for all state officers and members of the House of Representatives of the United States, shall be made, and certificates issued in the manner now prescribed by law for returning votes given for delegates to Congress; and the returns for all district officers, judicial, legislative or otherwise, shall be made to the register of deeds



of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the governor of the Territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for delegates to Congress.

SEC. 22. If, upon canvassing the votes for and against the adoption of this Constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificate of election shall be issued for any State or district officer provided for in this Constitution, and no State organization shall have validity within the limits of the Territory, until otherwise provided for and until a Constitution for a State government shall have been adopted by the people.



## MISSISSIPPI<sup>a</sup>

For organic acts relating to the land now included within Mississippi see in other parts of this work as follows:

- Proprietary Charter of Carolina, 1663 (North Carolina, p. 2743).
- Proprietary Proposals, 1663 (North Carolina, p. 2753).
- Proprietary Charter of Carolina, 1665 (North Carolina, p. 2756).
- Fundamental Constitutions of Carolina, 1669 (North Carolina, p. 2772).
- Proprietary Charter of Georgia, 1732 (Georgia, p. 765).
- Constitution of South Carolina, 1776 (South Carolina, p. 3241).
- Constitution of Georgia, 1777 (Georgia, p. 777).
- Constitution of South Carolina, 1778 (South Carolina, p. 3248).
- Constitution of Georgia, 1789 (Georgia, p. 785).
- Territory South of Ohio River, 1790 (Tennessee, p. 3409).
- Proclamation Respecting Occupation of Territory, 1810 (Louisiana, p. 1375).

### TERRITORIAL GOVERNMENT OF MISSISSIPPI—1798<sup>b</sup>

[FIFTH CONGRESS, SECOND SESSION]

An Act for an amicable settlement of the limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he hereby is, authorized to appoint three commissioners, any two of whom shall have power to adjust and determine, with such commissioners as may be appointed under the legislative authority of the State of Georgia, all interfering claims of the United States and that State, to territory situate west of the river Chattahoochee, north of the thirty-first degree of north latitude, and south of the cession made to the United States by South Carolina; and also to receive any proposals for the relinquishment or cession of the whole or any part of the other territory claimed by the State of Georgia, and out of the ordinary jurisdiction thereof.

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<sup>a</sup>A portion of the area embraced in the present State of Mississippi was successively under the rule of Great Britain, Spain, and France before the United States Government took possession in 1798. Georgia then claimed jurisdiction over Alabama and Mississippi, but ceded her rights upon the payment of \$1,250,000, out of the proceeds of the sales of the public land therein.

<sup>b</sup>For other statutes of an organic nature relating to Mississippi see an act to regulate grants of land, and declaring waterways south of Tennessee to be public highways, act of March 3, 1803; to appoint additional judge and regulate court procedure, March 27, 1804; to give additional judge and extend right of suffrage, March 2, 1810; to enlarge the boundaries of, May 14, 1812; to request state of Georgia to agree to formation of two states in Mississippi Territory, June 17, 1812; extending right of suffrage, act of October 25, 1814; to provide for due execution of the laws of United States in, April 3, 1818.

SEC. 2. *And be it further enacted*, That all the lands thus ascertained as the property of the United States shall be disposed of in such manner as shall be hereafter directed by law; and the nett proceeds thereof shall be applied to the sinking and discharging the public debt of the United States, in the same manner as the proceeds of the other public lands in the territory northwest of the river Ohio.

SEC. 3. *And be it further enacted*, That all that tract of country bounded on the west by the Mississippi, on the north by a line to be drawn due east from the mouth of the Yazoo to the Chattahouchee River; on the east by the river Chattahouchee; and on the south by the thirty-first degree of north latitude, shall be, and hereby is, constituted one district, to be called the Mississippi Territory; and the President of the United States is hereby authorized to establish therein a government in all respects similar to that now exercised in the territory northwest of the Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the thirteenth day of July, one thousand seven hundred and eighty-seven, and, by and with the advice and consent of the Senate, to appoint all the necessary officers therein, who shall respectively receive the same compensations for their services, to be paid in the same manner as is by law established for similar officers in the territory northwest of the river Ohio; and the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of governor: *Provided, always*, That if the President of the United States should find it most expedient to establish this government in the recess of Congress, he shall nevertheless have full power to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the session of Congress next ensuing the establishment of the government.

SEC. 4. *And be it further enacted*, That the territory hereby constituted one district, for the purpose of government, may, at the discretion of Congress, be hereafter divided into two districts, with separate territorial governments in each, similar to that established by this act.

SEC. 5. *And be it further enacted*, That the establishment of this government shall in no respect impair the right of the State of Georgia, or of any person or persons, either to the jurisdiction or the soil of the said Territory; but the rights and claims of the said State, and all persons interested, are hereby declared to be as firm and available as if this act had never been made.

SEC. 6. *And be it further enacted*, That from and after the establishment of the said government, the people of the aforesaid Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted to the people of the territory of the United States northwest of the river Ohio in and by the aforesaid ordinance of the thirteenth day of July in the year one thousand seven hundred and eighty-seven, in as full and ample a manner as the same are possessed and enjoyed by the people of the said last-mentioned Territory.

SEC. 7. *And be it further enacted*, That from and after the establishment of the aforesaid government, it shall not be lawful for any person or persons to import or bring into the said Mississippi Territory, from any port or place without the limits of the United States,

or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves; and that every person so offending, and being thereof convicted before any court within the said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported or brought the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of any person or persons who shall sue for the same; and that every slave so imported or brought shall thereupon become entitled to and receive his or her freedom.

SEC. 8. *And be it further enacted*, That the sum of ten thousand dollars be, and hereby is, appropriated, for the purpose of enabling the President of the United States to carry into effect the provisions of this act; and that the said sum be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, April 7, 1798.

## TERRITORIAL GOVERNMENT OF MISSISSIPPI—1800

[SIXTH CONGRESS, FIRST SESSION]

An Act supplemental to the Act intituled "An Act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory "

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of the ordinance of Congress of the thirteenth of July, one thousand seven hundred and eighty-seven, and of the act of Congress of the seventh of August, one thousand seven hundred and eighty-nine, providing for the government of the territory of the United States northwest of the river Ohio, as relates to the organization of a general assembly therein and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided*, That until the number of free male inhabitants of full age in the said Territory shall amount to five thousand, there shall not be returned to the general assembly more than nine representatives.

SEC. 2. *And be it further enacted*, That until the number of free male inhabitants of full age in the Mississippi Territory shall amount to five thousand, the county of Adams shall be entitled to choose four representatives to the general assembly, the county of Pickering four, and the Tensaw and Tombigbee settlements one.

SEC. 3. *And be it further enacted*, That the first election for representatives to the general assembly shall be on the fourth Monday in July next, and that all subsequent elections shall be regulated by the legislature.

SEC. 4. *And be it further enacted*, That it shall be the duty of the governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties and settlements aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

SEC. 5. *And be it further enacted*, That the representatives shall be convened by the governor at the town of Natchez on the fourth Monday in September next.



SEC. 6. *And be it further enacted*, That so soon as the number of free male inhabitants of full age shall amount to or exceed five thousand, the number of representatives to the general assembly shall be determined and the apportionment made in the way prescribed in the ordinance.

SEC. 7. *And be it further enacted*, That nothing in this act shall in any respect impair the right of the State of Georgia to the jurisdiction, or of the said State, or of any person or persons, to the soil of the said Territory; but the rights and claims of the said State and all persons interested are hereby declared to be as firm and available as if this act had never been made.

SEC. 8. *And be it further enacted*, That the general assembly shall meet at least once in every year, and such meeting shall be on the first Monday of December, unless they shall by law appoint a different day: *Provided*, That the governor shall have power on extraordinary occasions to convene the general assembly.

SEC. 9. *And be it further enacted*, That neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 10. *And be it further enacted*, That it shall be lawful for the commissioners appointed, or who may hereafter be appointed, on the part of the United States, in pursuance of the act intituled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory," or any two of them, finally to settle, by compromise, with the commissioners which have been or may be appointed by the State of Georgia, any claims mentioned in said act, and to receive in behalf of the United States a cession of any lands therein mentioned, or of the jurisdiction thereof, on such terms as to them shall appear reasonable. And, also, that the said commissioners on the part of the United States, or any two of them, be authorized to inquire into the claims which are or shall be made by settlers, or any other persons whatsoever, to any part of the aforesaid lands, and to receive from such settlers and claimants any propositions of compromise which may be made by them, and lay a full statement of the claims and the propositions which may be made to them by the settlers or claimants to any part of the said lands, together with their opinion thereon, before Congress, for their decision thereon, as soon as may be: *Provided*. That the settlement shall be made and completed before the fourth day of March, one thousand eight hundred and three: *And provided also*, That the said commissioners shall not contract for the payment of any money from the Treasury of the United States to the State of Georgia, other than the proceeds of the same lands.

Approved, May 10, 1800.

**TERRITORIAL GOVERNMENT OF MISSISSIPPI—1808**

[TENTH CONGRESS, FIRST SESSION]

An Act extending the right of suffrage in the Mississippi Territory, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every free white male person in the Mississippi Territory above the age of twenty-one years, having been a citizen of the United States and resident in the said Territory one year next preceding an election of representatives, and who has a legal or equitable title to a tract of land by virtue of any act of Congress or who may become the purchaser of any tract of land from the United States of the quantity of fifty acres, or who may hold in his own right a town-lot of the value of one hundred dollars within the said Territory, shall be entitled to vote for representatives to the general assembly of said Territory.

SEC. 2. *And be it further enacted,* That the general assembly of the Territory aforesaid shall have power to apportion the representatives of the several counties therein, or which may hereafter be established therein, according to the number of free white male inhabitants above the age of twenty-one years in such counties: *Provided,* That there be not more than twelve nor less than ten of the whole number of representatives, any act or acts to the contrary notwithstanding, until there shall be six thousand free male white inhabitants of full age in said Territory; after which time the number of representatives shall be regulated agreeably to the ordinance for the government thereof.

SEC. 3. *And be it further enacted,* That the citizens of the said Territory entitled to vote for representatives to the general assembly thereof shall, at the time of electing their representatives to the said general assembly, also elect one Delegate from the said Territory to the Congress of the United States, who shall possess the same powers heretofore granted to the Delegates from the several Territories of the United States, anything in the ordinance for the government of said Territory to the contrary notwithstanding.

Approved, January 9, 1808.

**ENABLING ACT FOR MISSISSIPPI—1817**

[FOURTEENTH CONGRESS, SECOND SESSION]

An Act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of the western part of the Mississippi Territory be, and they hereby are, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and

the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning on the river Mississippi at the point where the southern boundary-line of the State of Tennessee strikes the same; thence east along the said boundary-line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence by a direct line to the northwest corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west, along the said degree of latitude, to the Mississippi River; thence up the same to the beginning.

SEC. 3. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the time of holding the election, and shall have paid a county or territorial tax, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned among the several counties within the said Territory as follows, to wit: From the county of Warren, two representatives; from the county of Claiborne, four representatives; from the county of Jefferson, four representatives; from the county of Adams, eight representatives; from the county of Franklin, two representatives; from the county of Wilkinson, six representatives; from the county of Amite, six representatives; from the county of Pike, four representatives; from the county of Lawrence, two representatives; from the county of Marion, two representatives; from the county of Hancock, two representatives; from the county of Wayne, two representatives; from the county of Greene, two representatives; from the county of Jackson, two representatives; and the election of the representatives aforesaid shall be holden on the first Monday and Tuesday in June next, throughout the several counties above mentioned, and shall be conducted in the same manner as is prescribed by the laws of said Territory, regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they hereby are, authorized to meet at the town of Washington, on the first Monday of July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be, or be not, expedient at that time to form a constitution and State government for the people within the said Territory; and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same has been extended to the said territory by the articles of agreement between the United States and

the State of Georgia, or of the Constitution of the United States: *And provided also*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order, or under the authority, of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years, from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands, the property of the United States; and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the Gulf of Mexico, shall be common highways, and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State.

SEC. 5. *And be it further enacted*, That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals; of which three-fifths shall be applied to those objects within the said State, under the direction of the legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress: *Provided*, That the application of such proceeds shall not be made until after payment is completed of the one million two hundred and fifty thousand dollars due to the State of Georgia, in consideration of the cession to the United States, nor until the payment of all the stock which has been or shall be created by the act entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory," shall be completed: *And provided also*, That the said five per cent. shall not be calculated on any part of such proceeds as shall be applied to the payment of the one million two hundred and fifty thousand dollars due to the State of Georgia, in consideration of the cession to the United States, or in payment of the stock which has or shall be created by the act entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory."

SEC. 6. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

Approved, March 1, 1817.

## ADMISSION OF MISSISSIPPI INTO THE UNION—1817

[FIFTEENTH CONGRESS, FIRST SESSION]

Resolution for the admission of the State of Mississippi into the Union

Whereas, in pursuance of an act of Congress passed on the first day of March, one thousand eight hundred and seventeen, entitled "An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," the people of the said Territory did, on the fifteenth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government so formed is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the Territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven—

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of Mississippi shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 10, 1817.

## CONSTITUTION OF MISSISSIPPI—1817 \* <sup>a</sup>

We, the representatives of the people inhabiting the western part of the Mississippi territory, contained within the following limits, to wit: Beginning on the river Mississippi, at the point where the southern boundary-line of the State of Tennessee strikes the same; thence east, along the said boundary-line, to the Tennessee River; thence up the same to the mouth of Bear Creek; thence, by a direct line, to the northwest corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, including all islands within six leagues of the shore, to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west, along the said degree of latitude, to the Mississippi River; thence up the same to the beginning, assembled in convention, at the town of Washington, on Monday, the seventh day of July, one thousand eight hundred and seventeen, in pursuance of an act of Congress, entitled "An act, to enable the people of the western part of the Mississippi Territory to form a constitution and State government; and for the admission of such State into the Union, on an equal footing with the original States;" in order to secure to the citizens thereof the rights of life, liberty, and property;

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\* Verified from "The Constitution and Form of Government for the State of Mississippi [Printed by Order of the General Assembly] Natchez; Printed by Marschalk and Evens & Co., State Printers, 1821." 32 pp.

<sup>a</sup> This constitution was framed by a convention which met at the town of Washington July 7, 1817, and completed its labors August 15, 1817. It was submitted to the people and ratified at a special election.



do ordain and establish the following constitution and form of government, and do mutually agree with each other to form ourselves into a free and independent State, by the name of the State of Mississippi.

## ARTICLE I

### DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all freemen, when they form a social compact, are equal in rights; and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, from the community, but in consideration of public services.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an unalienable and indefeasible right to alter or abolish their form of government, in such manner as they may think expedient.

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State: *Provided*, That the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this State.

SEC. 4. No preference shall ever be given by law to any religious sect or mode of worship.

SEC. 5. That no person shall be molested for his opinions on any subject whatever, nor suffer any civil or political incapacity, or acquire any civil or political advantage, in consequence of such opinions, except in cases provided for in this constitution.

SEC. 6. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

SEC. 7. No law shall ever be passed to curtail or restrain the liberty of speech or of the press.

SEC. 8. In all prosecutions or indictments for libels, the truth may be given in evidence; and the jury shall have the right to determine the law and the facts, under the direction of the court.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures or searches; and that no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and, in all prosecutions by indictment or information, a speedy public trial, by an impartial jury of the county; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the forms which the same has prescribed; and no person shall be punished but in virtue of a

law established and promulgated prior to the offence, and legally applied.

SEC. 12. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia, when in actual service, or by leave of the court, for misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb, nor shall any person's property be taken or applied to public use, without the consent of his representatives, and without just compensation being made therefor.

SEC. 14. That all courts shall be open, and every person for any injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law; and right and justice administered without sale, denial, or delay.

SEC. 15. That no power of suspending laws shall be exercised except by the legislature or its authority.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 17. That all prisoners shall, before conviction, be bailable by sufficient securities, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be detained in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 19. That no *ex post facto* law, nor law impairing the obligation of a contract, shall be made.

SEC. 20. That no person shall be attainted of treason or felony by the legislature.

SEC. 21. That the estates of suicides shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right, in a peaceable manner, to assemble together, for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance.

SEC. 23. Every citizen has a right to bear arms, in defence of himself and the State.

SEC. 24. No standing army shall be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in a strict subordination to the civil power.

SEC. 25. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 26. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 27. No citizen of this State shall be exiled, or prevented from emigrating, on any pretence whatever.

SEC. 28. The right of trial by jury shall remain inviolate.

SEC. 29. No person shall be debarred from prosecuting or defending any civil cause, for or against him or her self, before any tribunal in this State, by him or her self or counsel, or both.

## CONCLUSION

To guard against transgressions of the high powers herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

## ARTICLE II

## DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

## ARTICLE III

## LEGISLATIVE DEPARTMENT

SECTION 1. Every free white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the county, city, or town in which he offers to vote, and shall be enrolled in the militia thereof, except exempted by law from military service; or, having the aforesaid qualifications of citizenship and residence, shall have paid a State or county tax, shall be deemed a qualified elector. But no elector shall be entitled to vote, except in the county, city, or town (entitled to separate representation) in which he may reside at the time of the election.

SEC. 2. Electors shall, in all cases, except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 3. The first election shall be by ballot, and all future elections by the people shall be regulated by law.

SEC. 4. The legislative power of this State shall be vested in two distinct branches; the one to be styled the senate, the other the house of representatives, and both together, "the general assembly of the State of Mississippi." And the style of their laws shall be "*Be it enacted by the senate and house of representatives of the State of Mississippi in general assembly convened.*"

SEC. 5. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of one year from the day of the commencement of the general election, and no longer.

SEC. 6. The representatives shall be chosen every year, on the first Monday and the day following in August.

SEC. 7. No person shall be a representative unless he be a citizen of the United States and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a

resident of the county, city, or town for which he shall be chosen, and shall have attained to the age of twenty-two years; and also, unless he shall hold, in his own right, within this State, one hundred and fifty acres of land, or an interest in real estate of the value of five hundred dollars, at the time of his election. and for six months previous thereto.

SEC. 8. Elections for representatives for the several counties shall be held at the places of holding their respective courts, or in the several election districts into which the legislature may divide any county: *Provided*, That when it shall appear to the legislature that any city or town hath a number of free white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of free white inhabitants therein, which shall be retained so long as such city or town shall contain a number of free white inhabitants equal to the existing ratio; and thereafter, and during the existence of the right of separate representation in such city or town, elections for the county in which such city or town entitled to a separate representation is situated shall not be held in such city or town: *And provided*, That if the residuum or fraction of any city or town entitled to separate representation shall, when added to the residuum in the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town having the largest residuum shall be entitled to such representation: *And provided also*, That when there are two or more counties adjoining, which have residuums over and above the ratio then fixed by law, if said residuums, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 9. The general assembly shall, at their first meeting, and in the year one thousand eight hundred and twenty, and in not less than every three nor more than every five years thereafter, cause an enumeration to be made of all the free white inhabitants of the State; and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the general assembly, and apportioned among the several counties, cities, or towns entitled to separate representation according to the number of free white inhabitants in each; and shall not be less than twenty-four, nor greater than thirty-six, until the number of free white inhabitants shall be eighty thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six nor more than one hundred: *Provided, however*, That each county shall always be entitled to at least one representative.

SEC. 10. The whole number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the general assembly, and apportioned among the several districts to be established by law, according to the number of free white taxable inhabitants in each, and shall never be less than one-fourth nor more than one-third of the whole number of representatives.

SEC. 11. The senators shall be chosen by the qualified electors for three years; and, on their being convened in consequence of the first election, they shall be divided by lot, from their respective districts, into three classes, as nearly equal as can be. The seats of the senators of the first class shall be vacated at the expiration of the first year;

and of the second class, at the expiration of the second year; and of the third class, at the expiration of the third year; so that one-third thereof may be annually chosen thereafter.

SEC. 12. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of numbers in each class.

SEC. 13. When a senatorial district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 14. No person shall be a senator unless he be a citizen of the United States, and shall have been an inhabitant of this State four years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained to the age of twenty-six years; and also, unless he shall hold, in his own right, within this State, three hundred acres of land, or an interest in real estate of the value of one thousand dollars, at the time of his election, and for six months previous thereto.

SEC. 15. The house of representatives, when assembled, shall choose a speaker and its other officers; and the senate shall choose its officers, except the president; and each house shall judge of the qualifications and elections of its own members; but a contested election shall be determined in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause, and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journals.

SEC. 18. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 19. Senators and representatives shall in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; allowing one day for every twenty miles, such member may reside from the place at which the general assembly is convened.

SEC. 20. Each house may punish by imprisonment, during the session, any person, not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 21. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.



SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in cases of urgency, four-fifths of the house in which the bill shall be depending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 24. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 25. Each member of the general assembly shall receive from the public treasury a compensation for his services which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 26. No senator or representative shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term; except such offices as may be filled by elections by the people; and no member of either house of the general assembly shall, after the commencement of the first session of the legislature after his election and during the remainder of the term for which he is elected, be eligible to any office or place the appointment to which may be made in whole or in part by either branch of the general assembly.

SEC. 27. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States (the office of postmaster excepted) or this State shall be eligible to the general assembly: *Provided*, That officers in the militia, to which there is attached no annual salary, or the office of justice of the peace, or of the quorum, shall not be deemed lucrative.

SEC. 28. No person who hath heretofore been, or hereafter may be, a collector or holder of public moneys shall have a seat in either house of the general assembly, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable.

SEC. 29. The first election for senators and representatives shall be general throughout the State, and shall be held on the first Monday and Tuesday in September next; and thereafter there shall be an annual election for senators to fill the places of those whose term of service may have expired.

SEC. 30. The first session of the general assembly shall commence on the first Monday in October next, and be held at the city of Natchez, and thereafter at such place as may be directed by law; and thereafter the general assembly shall meet on the first Monday in November in every year, and at no other period, unless directed by law, or provided for by this constitution.

## ARTICLE IV

## EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of this State shall be vested in a governor, who shall be elected by the qualified electors, and shall hold his office for two years from the time of his installation, and until his successor be duly qualified.

SEC. 2. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of State, who shall deliver them to the speaker of the house of representatives, at the next ensuing session of the general assembly, during the first week of which session the said speaker shall open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint ballot of both houses.

Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, and shall be seized in his own right of a freehold estate of six hundred acres of land, or of real estate of the value of two thousand dollars, at the time of his election and twelve months previous thereto.

SEC. 4. He shall at stated times receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information, in writing, from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy or from contagious disorders, and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next annual meeting of the general assembly.

SEC. 8. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law. In cases of treason he shall have power to grant reprieves and pardons, by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the general assembly.

SEC. 11. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the State of Mississippi.

SEC. 13. When a vacancy shall happen in any office during the recess of the general assembly, the governor shall have power to fill the same, by granting a commission, which shall expire at the end of the next session of the general assembly, except in cases otherwise directed by this constitution.

SEC. 14. A secretary of state shall be appointed, who shall continue in office during the term of two years. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as may be required of him by law.

SEC. 15. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it; if, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. The appointment of all officers, not otherwise directed by this constitution, shall be by the joint vote of both houses of the general assembly; the votes shall be given *viva voce*, and recorded in the public journal of each house: *Provided*, That the general assembly be authorized to provide by law for the appointment of all inspectors, collectors, and their deputies, surveyors of highways, constables, and such other inferior officers, whose jurisdiction may be confined within the limits of the county.

SEC. 18. There shall be also a lieutenant-governor, who shall be chosen at every election for a governor, by the same persons, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant-governor.

SEC. 19. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have, when in committee of the whole, a right to debate and vote on all questions, and, when the senate is equally divided, to give the casting vote.

SEC. 20. In case of the death, resignation, refusal to serve, or removal from office of the governor, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the next periodical election for governor, and be duly qualified; or until the governor impeached or absent shall be acquitted or return.

SEC. 21. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president *pro tempore*.

And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office; or if he shall be impeached, or absent from the State, the president of the senate *pro tempore* shall, in like manner, administer the government, until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, whilst he acts as president of the senate, receive for his service the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor, shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 22. The president *pro tempore* of the senate shall, during the time he administers the government, receive, in like manner, the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 23. If the lieutenant-governor shall be required to administer the government, and shall, whilst in such administration, die, resign, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a president *pro tempore*.

SEC. 24. A sheriff, and one or more coroners, shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed.

SEC. 25. A State treasurer and an auditor of public accounts shall be annually appointed.

#### MILITIA

SECTION 1. The general assembly shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States, in relation thereto.

SEC. 2. Officers of the militia shall be elected or appointed in such manner as the legislature shall from time to time direct, and shall be commissioned by the governor.

SEC. 3. Those persons who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

## ARTICLE V

### JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in one supreme court, and such superior and inferior courts of law and equity as the legislature may, from time to time, direct and establish.

SEC. 2. There shall be appointed in this State not less than four nor more than eight judges of the supreme and superior courts, who shall receive for their services a compensation which shall be fixed by law, and shall not be diminished during their continuance in office: *Provided*, That the judge whose decision is under consideration in the supreme court shall not constitute one of the court to determine the question on such decision; but it shall be the duty of such judge to report to the supreme court the reasons upon which his opinion was founded.

SEC. 3. The State shall be divided into convenient districts, and each district shall contain not less than three nor more than six counties. For each district there shall be appointed a judge, who shall, after his appointment, reside in the district for which he is appointed.

SEC. 4. The superior court shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases, only where the matter or sum in controversy exceeds fifty dollars.

SEC. 5. A superior court shall be held in each county in the State at least twice in every year. The judges of the several superior courts may hold courts for each other when they may deem it expedient, or as they may be directed by law.

SEC. 6. The legislature shall have power to establish a court or courts of chancery, with exclusive original equity jurisdiction; and, until the establishment of such court or courts, the said jurisdiction shall be vested in the superior courts respectively.

SEC. 7. The legislature shall have power to establish in each county within this State a court of probate for the granting of letters testamentary, and of administration, or orphans' business, for county police, and for the trial of slaves.

SEC. 8. A competent number of justices of the peace shall be appointed in and for each county, in such mode, and for such term of office, as the legislature shall direct. Their jurisdiction, in civil cases, shall be limited to causes in which the amount in controversy shall not exceed fifty dollars. And in all cases tried by a justice of the peace, right of appeal shall be secured, under such rules and regulations as shall be prescribed by law.

SEC. 9. The judges of the several courts of this State shall hold their offices during good behavior. And for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for an impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and on the journals of



each house: *And provided further*, That the judge so intended to be removed shall be notified, and admitted to a hearing in his own defence, before any vote for such address shall pass.

SEC. 10. No person who shall have arrived at the age of sixty-five years shall be appointed to, or continue in, the office of judge in this State.

SEC. 11. Each court shall appoint its own clerk, who shall hold his office during good behavior, but shall be removable therefrom for neglect of duty, or misdemeanor in office, by the supreme court, which court shall determine both the law and the fact: *Provided*, That the clerk so appointed shall have been a resident of the county in which he is clerk at least six months previous to his appointment.

SEC. 12. The judges of the supreme and superior court shall, by virtue of their offices, be conservators of the peace throughout the State.

SEC. 13. The style of all process shall be, "The State of Mississippi," and all prosecution shall be carried on in the name and by the authority of "the State of Mississippi," and shall conclude, "against the peace and dignity of the same."

SEC. 14. There shall be an attorney-general for the State, and as many district attorneys as the general assembly may deem necessary, who shall hold their offices for the term of four years, and shall receive for their services a compensation, which shall not be diminished during their continuance in office.

#### IMPEACHMENTS

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law, as in other cases.

#### ARTICLE VI

##### GENERAL PROVISIONS

SECTION 1. Members of the general assembly and all officers, executive and judicial, before they enter on the execution of their respective offices, shall take the following oath or affirmation, to wit: "I solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the constitution of the State of Mississippi, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of the office of ———, according to law: So help me God."

SEC. 2. The general assembly shall have power to pass such penal laws to suppress the evil practice of duelling, extending to disqualification from office or the tenure thereof, as they may deem expedient.

SEC. 3. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 4. Every person shall be disqualified from holding an office or place of honor or profit, under the authority of this State, who shall be convicted of having given or offered any bribe to procure his election.

SEC. 5. Laws shall be made to exclude from office, and from suffrage, those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper conduct.

SEC. 6. No person who denies the being of God or a future state of rewards and punishments shall hold any office in the civil department of this State.

SEC. 7. Ministers of the gospel being, by their profession, dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of governor, lieutenant-governor, or to a seat in either branch of the general assembly.

SEC. 8. No money shall be drawn from the treasury, but in consequence of an appropriation made by law, nor shall any appropriation of money, for the support of an army, be made for a longer term than one year; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 9. No bank shall be incorporated by the legislature without the reservation of a right to subscribe for, in behalf of the State, at least one-fourth part of the capital stock thereof, and the appointment of a proportion of the directors equal to the stock subscribed for.

SEC. 10. The general assembly shall pass no law impairing the obligation of contracts, prior to the year one thousand eight hundred and twenty-one, on account of the rate of interest, fairly agreed on in writing between the contracting parties, for a *bona-fide* loan of money; but they shall have power to regulate the rate of interest where no special contract exists in relation thereto.

SEC. 11. The general assembly shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 12. All officers of the State, the term of whose appointment is not otherwise directed by this constitution, shall hold their offices during good behavior.

SEC. 13. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of a residence once obtained.

SEC. 14. It shall be the duty of the general assembly to regulate by law the cases in which deductions shall be made from the salaries of public officers for neglect of duty in their official capacity, and the amount of such deduction.

SEC. 15. No member of Congress, nor any person holding any office of profit or trust under the United States, or either of them, the office

of postmaster excepted, or under any foreign power, shall hold or exercise any office of trust under this State.

SEC. 16. Religion, morality, and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this State.

SEC. 17. Divorces from the bonds of matrimony shall not be granted, but in cases provided for by law, by suit in chancery: *Provided*, That no decree for such divorce shall have effect until the same shall be sanctioned by two-thirds of both branches of the general assembly.

SEC. 18. Returns of all elections by the people shall be made to the secretary of state.

SEC. 19. No new county shall be established by the general assembly which shall reduce the county or counties, or either of them, from which it may be taken to a less content than five hundred and seventy-six square miles, nor shall any new county be laid off of less contents.

SEC. 20. That the general assembly shall take measures to preserve from unnecessary waste or damage such lands as are or may hereafter be granted by the United States for the use of schools, within each township in this State, and apply the funds which may be raised from such lands, by rent or lease, in strict conformity to the object of such grant; but no lands granted for the use of such township schools shall ever be sold by any authority in this State.

#### SLAVES

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owners, unless where a slave shall have rendered to the State some distinguished service, in which case the owner shall be paid a full equivalent for the slaves so emancipated. They shall have no power to prevent immigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such immigrants; *And provided also*, That laws may be passed to prohibit the introduction into the State of slaves who may have committed high crimes in other States. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to prevent slaves from being brought into this State as merchandise; and also to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, or in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. In the prosecution of slaves for crimes, no inquest by a grand jury shall be necessary, but the proceedings in such cases shall be regulated by law; except that, in capital cases, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

## MODE OF REVISING THE CONSTITUTION

That whenever two-thirds of the general assembly shall deem it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the general assembly, to vote for or against a convention, and if it shall appear that a majority of the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen by the qualified electors, in the manner and at the times and places of choosing members of the general assembly, which convention shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution.

## SCHEDULE

SECTION 1. That no inconvenience may arise from a change of territorial to a permanent State government, it is declared, that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if no such change had taken place.

SEC. 2. All fines, penalties, forfeitures, and escheats, accruing to the Mississippi Territory, within the limits of this State, shall inure to the use of the State.

SEC. 3. The validity of all bonds and recognizances executed to the governor of the Mississippi Territory shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Mississippi and his successors in office; and all criminal or penal actions, arising or now depending within the limits of this State, shall be prosecuted to judgment and execution in the name of the said State. All causes of action arising to individuals, and all suits at law or in equity, now depending in the several courts within the limits of this State, and not already barred by law, may be commenced in, or transferred to, such court as may have jurisdiction thereof. Bonds, recognizances, and other papers and writings, properly belonging to the eastern section of the Mississippi Territory, not comprised within the limits of this State, shall be transferred to the offices to which they severally belong.

SEC. 4. All officers, civil and military, now holding commissions under the authority of the United States or of the Mississippi Territory, within this State, shall continue to hold and exercise their respective offices under the authority of this State, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this State the same compensation which they heretofore received for their services, in proportion to the time they shall be so employed. The governor shall have power to fill vacancies by commissions, to expire so soon as elections or appointments can be made to such office by the authority of this constitution.

SEC. 5. All laws and parts of laws now in force in the Mississippi Territory, and not repugnant to the provisions of this constitution, shall continue and remain in force as the laws of this State, until they

expire by their own limitation, or shall be altered or repealed by the legislature thereof.

SEC. 6. Every free white male person, above the age of twenty-one years, who shall be a citizen of the United States and resident in this State at the time of the adoption of this constitution, shall be deemed a qualified elector, at the first election to be held in this State, anything in the constitution to the contrary notwithstanding.

SEC. 7. The president of this convention shall issue writs of election, directed to the sheriffs of the several counties, requiring them to cause an election to be held for a governor, lieutenant-governor, Representative to the Congress of the United States, members of the general assembly, and sheriffs of the respective counties, at the respective places of elections in said counties, except in the county of Warren, in which county the election shall be held at the court-house instead of the place provided by law, on the first Monday and the day following in September next, which election shall be conducted in the manner prescribed by the existing election laws of the Mississippi Territory, and the said governor, lieutenant-governor, and members of the general assembly, then duly elected, shall continue to discharge the duties of their respective offices for the time prescribed by this constitution, and until their successors be duly qualified.

SEC. 8. Until the first enumeration shall be made, as directed by this constitution, the county of Warren shall be entitled to one representative, the county of Claiborne to two representatives, the county of Jefferson to two representatives, the county of Adams to four representatives, the county of Franklin to one representative, the county of Wilkinson to three representatives, the county of Amite to three representatives, the county of Pike to two representatives, the county of Lawrence to one representative, the county of Marion to one representative, the county of Hancock to one representative, the county of Greene to one representative, the county of Wayne to one representative, the county of Jackson to one representative. The counties of Warren and Claiborne shall be entitled to one senator, the county of Adams to one senator, the county of Jefferson to one senator, the county of Wilkinson to one senator, the county of Amite to one senator, the counties of Franklin and Pike to one senator, the counties of Lawrence, Marion, and Hancock to one senator, the counties of Greene, Wayne, and Jackson to one senator.

SEC. 9. The governor may appoint and commission an additional judge, or one of the former judges of the superior court, whose commission shall expire so soon as appointments can be made under the constitution. It shall be the duty of the judge so appointed, or one of the former territorial judges, to hold superior courts in the counties of Jackson, Greene, Wayne, and Hancock at the time heretofore prescribed by law: *Provided*, That if either of the former territorial judges, in addition to his duty in the western counties, perform such duty, and no additional judge be appointed, he shall receive an extra compensation, proportioned to the amount of his salary and term of service rendered. If an additional judge be appointed, he shall receive the same compensation for his services as the other judges of the superior court.

SEC. 10. The sheriff of Warren County shall, within ten days after



the election, make return of the number of votes for senator in his county to the sheriff of Claiborne County, who shall be the returning officer for the district. The sheriff of Pike County shall, within ten days after the election, make return of the number of votes for senator in his county to the sheriff of Franklin County, who shall be the returning officer for the district. The sheriffs of Hancock and Lawrence Counties shall, within ten days after the election, make return of the number of votes for senator in their respective counties to the sheriff of Marion County, who shall be the returning officer for the district. The sheriffs of Jackson and Wayne Counties shall, within ten days after the election, make return of the number of votes for senator in their respective counties to the sheriff of Greene County, who shall be the returning officer for the district.

#### ORDINANCE

Whereas it is required by the act of Congress under which this convention is assembled that certain provisions should be made by an ordinance of this convention :

Therefore this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the State of Mississippi, and that the same shall be and remain at the sole and entire disposition of the United States, and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax laid by the order or under the authority of this State, whether for State, county, township, parish, or other purposes whatever, for the term of five years, from and after the respective days of sale thereof, and that the lands belonging to the citizens of the United States, residing without this State, shall never be taxed higher than the lands belonging to persons residing within the same; that no taxes shall be imposed on lands the property of the United States, and that the river Mississippi, and the navigable rivers and waters leading into the same, or into the gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of this State as to other citizens of the United States, without any duty, tax, impost, or toll therefor, imposed by this State; and this ordinance is hereby declared irrevocable, without the consent of the United States.

Done in convention, at the town of Washington, the fifteenth day of August, in the year of our Lord 1817, and in the forty-second year of the Independence of the United States of America.

DAVID HOLMES, *President.*

LOUIS WINSTON, *Secretary.*

CONSTITUTION OF MISSISSIPPI—1832<sup>a</sup>

## ARTICLE I

## DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. That all freemen, when they form a social compact, are equal in rights; and that no men, or set of men, are entitled to exclusive, separate public emoluments or privileges from the community, but in consideration of public services.

SEC. 2. That all political power is inherent in the people, and all free governments are founded on their authority and established for their benefit, and therefore they have at all times an unalienable and indefeasible right to alter or abolish their form of government, in such manner as they may think expedient.

SEC. 3. The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State: *Provided*, That the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State.

SEC. 4. No preference shall ever be given by law to any religious sect or mode of worship.

SEC. 5. That no person shall be molested for his opinions on any subject whatever, nor suffer any civil or political incapacity, or acquire any civil or political advantage, in consequence of such opinions, except in cases provided for in this constitution.

SEC. 6. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for the abuse of that liberty.

SEC. 7. No law shall ever be passed to curtail or restrain the liberty of speech, or of the press.

SEC. 8. In all prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions the accused hath a right to be heard, by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or information, a speedy

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<sup>a</sup> This constitution was framed by a convention which met at Jackson September 10, 1832, and completed its labors October 26, 1832. It was ratified by the people at the next general election.

and public trial by an impartial jury of the county where the offence was committed; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, but by due course of law.

SEC. 11. No person shall be accused, arrested, or detained, except in cases ascertained by law, and according to the form which the same has prescribed; and no person shall be punished but in virtue of a law established and promulgated prior to the offence, and legally applied.

SEC. 12. That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land or naval forces, or in the militia when in actual service, or by leave of the court, for misdemeanor in office.

SEC. 13. No person shall, for the same offence, be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use without the consent of the legislature, and without just compensation being first made therefor.

SEC. 14. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 15. That no power of suspending laws shall be exercised, except by the legislature, or its authority.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 17. That all prisoners shall, before conviction, be bailable by sufficient securities, except for capital offences where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in a case of rebellion or invasion, the public safety may require it.

SEC. 18. That the person of a debtor, when there is not strong presumption of fraud, shall not be detained in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 19. No conviction for any offence shall work corruption of blood or forfeiture of estate. The legislature shall pass no bill of attainder, *ex post facto* law, nor law for impairing the obligation of contracts.

SEC. 20. No property qualification for eligibility to office, or for the right of suffrage, shall ever be required by law in this State.

SEC. 21. That the estate of suicides shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right, in a peaceable manner, to assemble together for their common good, and to apply to those vested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 23. Every citizen has a right to bear arms in defence of himself and of the State.

SEC. 24. No standing army shall be kept up without the consent of the legislature; and the military shall in all cases, and at all times, be in strict subordination to the civil power.

SEC. 25. That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, or in time of war, but in manner to be prescribed by law.

SEC. 26. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 27. Emigration from this State shall not be prohibited, nor shall any free white citizen of this State ever be exiled under any pretence whatever.

SEC. 28. The right of trial by jury shall remain inviolate.

SEC. 29. No person shall be debarred from prosecuting or defending any civil cause for or against him or her self before any tribunal in this State, by him or her self, or counsel, or both.

SEC. 30. No person shall ever be appointed or elected to any office in this State for life or during good behavior; but the tenure of all offices shall be for some limited period of time, if the person appointed or elected thereto shall so long behave well.

#### CONCLUSION

The guard against transgressions of the high powers herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

### ARTICLE II

#### DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate body of magistracy, to wit: those which are legislative to one, those which are judicial to another, and those which are executive to another.

SEC. 2. No person or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

### ARTICLE III

#### LEGISLATIVE DEPARTMENT

SECTION 1. Every free white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last four months within the county, city, or town in which he offers to vote, shall be deemed a qualified elector. And any such qualified elector who may happen to be in any county, city, or town other than that of his residence at the time of an election, or who shall have removed to any county, city, or town within four months preceding the election, from any county, city, or town in which he would have been a qualified elector had he not so removed, may vote for any State or district officer, or Member of Congress, for whom he could have

voted in the county of his residence, or the county, city, or town from which he may have so removed.

SEC. 2. Electors shall, in all cases, except in those of treason, felony, or breach of the peace, be privileged from arrest during their attendance on elections, and going to and returning from the same.

SEC. 3. The first election shall be by ballot, and all future elections by the people shall be regulated by law.

SEC. 4. The legislative power of this State shall be vested in two distinct branches; the one to be styled "the senate," the other "the house of representatives;" and both together "the legislature of the State of Mississippi." And the style of their laws shall be, "*Be it enacted by the legislature of the State of Mississippi.*"

SEC. 5. The members of the house of representatives shall be chosen by the qualified electors, and shall serve for the term of two years from the day of the commencement of the general election, and no longer.

SEC. 6. The representatives shall be chosen every two years, on the first Monday and day following in November.

SEC. 7. No person shall be a representative unless he be a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years.

SEC. 8. Elections for representatives for the several counties shall be held at the places of holding their respective courts, or in the several election-districts into which the county may be divided: *Provided*, That when it shall appear to the legislature that any city or town hath a number of free white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of free white inhabitants therein, which shall be retained so long as such city or town shall contain a number of free white inhabitants equal to the existing ratio; and thereafter and during the existence of the right of separate representation in such city or town, elections for the county in which such city or town entitled to a separate representation is situated shall not be held in such city or town: *And provided*, That if the residuum or fraction of any city or town entitled to separate representation shall, when added to the residuum in the county in which it may lie, be equal to the ratio fixed by law for one representative, then the aforesaid county, city, or town having the largest residuum shall be entitled to such representation: *And provided also*, That when there are two or more counties adjoining, which have residuums over and above the ratio then fixed by law, if said residuums, when added together, will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 9. The legislature shall at their first session, and at periods of not less than every four, nor more than every six years, until the year 1845, and thereafter at periods of not less than every four, nor more than every eight years, cause an enumeration to be made of all the free white inhabitants of this State, and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns entitled to separate representation, according to the number of free white inhabitants in each, and shall not be less



than thirty-six nor more than one hundred: *Provided, however,* That each county shall always be entitled to at least one representative.

SEC. 10. The whole number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of free white inhabitants in each, and shall never be less than one-fourth nor more than one-third of the whole number of representatives.

SEC. 11. The senators shall be chosen, by the qualified electors, for four years, and on their being convened in consequence of the first election, they shall be divided by lot from their respective districts into two classes, as nearly equal as can be; and the seats of the senators of the first class shall be vacated at the expiration of the second year.

SEC. 12. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of numbers in each class.

SEC. 13. When a senatorial district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 14. No person shall be a senator unless he be a citizen of the United States, and shall have been an inhabitant of this State four years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

SEC. 15. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate shall choose a president and its officers, and each house shall judge of the qualifications and elections of its own members; but a contested election shall be determined in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

SEC. 18. When vacancies happen in either house, the governor, or the person exercising the powers of the governor, shall issue writs of election to fill such vacancies.

SEC. 19. Senators and representatives shall in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 20. Each house may punish by imprisonment, during the session, any person, not a member, for disrespectful or disorderly beha-

rior in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 21. The doors of each house shall be open, except on such occasions of great emergency as, in the opinion of the house, may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. Bills may originate in either house, and be amended, altered, or rejected by the other, but no bill shall have the force of a law until on three several days it be read in each house, and free discussion be allowed thereon, unless four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

SEC. 24. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 25. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SEC. 26. No senator or representative shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people; and no member of either house of the legislature shall, after the commencement of the first session of the legislature after his election, and during the remainder of the term for which he is elected, be eligible to any office or place, the appointment to which may be made in whole or in part by either branch of the legislature.

SEC. 27. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States or this State, shall be eligible to the legislature: *Provided*, That offices in the militia, to which there is attached no annual salary, and the office of justice of the peace, shall not be deemed lucrative.

SEC. 28. No person who hath heretofore been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the legislature, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 29. The first election for senators and representatives shall be general throughout the State, and shall be held on the first Monday and day following in November, 1833; and thereafter there shall be biennial elections for senators to fill the places of those whose term of service may have expired.

SEC. 30. The first and all future sessions of the legislature shall be held in the town of Jackson, in the county of Hinds, until the year 1850. During the first session thereafter, the legislature shall have power to designate by law the permanent seat of government: *Provided*, however, That unless such designation be then made by law,

the seat of government shall continue permanently at the town of Jackson. The first session shall commence on the third Monday in November, in the year 1833; and in every two years thereafter, at such time as may be prescribed by law.

SEC. 31. The governor, secretary of state, treasurer, auditor of public accounts, and attorney-general, shall reside at the seat of government.

#### ARTICLE IV

##### JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in one high court of errors and appeals, and such other courts of law and equity as are hereafter provided for in this constitution.

SEC. 2. The high court of errors and appeals shall consist of three judges, any two of whom shall form a quorum. The legislature shall divide the State into three districts, and the qualified electors of each district shall elect one of said judges for the term of six years.

SEC. 3. The office of one of said judges shall be vacated in two years, and of one in four years, and of one in six years, so that at the expiration of every two years one of said judges shall be elected as aforesaid.

SEC. 4. The high court of errors and appeals shall have no jurisdiction but such as properly belongs to a court of errors and appeals.

SEC. 5. All vacancies that may occur in said court, from death, resignation, or removal, shall be filled by election as aforesaid: *Provided, however,* That if the unexpired term do not exceed one year, the vacancy shall be filled by executive appointment.

SEC. 6. No person shall be eligible to the office of judge of the high court of errors and appeals who shall not have attained, at the time of his election, the age of thirty years.

SEC. 7. The high court of errors and appeals shall be held twice in each year, at such place as the legislature shall direct, until the year eighteen hundred and thirty-six, and afterwards at the seat of government of the State.

SEC. 8. The secretary of state, on receiving all the official returns of the first election, shall proceed, forthwith, in the presence and with the assistance of two justices of the peace, to determine by lot among the three candidates having the highest number of votes, which of said judges elect shall serve for the term of two years, which shall serve for the term of four years, and which shall serve for the term of six years, and having so determined the same, it shall be the duty of the governor to issue commissions accordingly.

SEC. 9. No judge shall sit on the trial of any cause when the parties, or either of them, shall be connected with him by affinity or consanguinity, or when he may be interested in the same, except by consent of the judge and of the parties; and whenever a quorum of said court are situated as aforesaid, the governor of the State shall in such case specially commission two or more men of law knowledge for the determination thereof.

SEC. 10. The judges of said court shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 11. The judges of the circuit court shall be elected by the qualified electors of each judicial district, and hold their offices for the term of four years, and reside in their respective districts.

SEC. 12. No person shall be eligible to the office of judge of the circuit court who shall not at the time of his election have attained the age of twenty-six years.

SEC. 13. The State shall be divided into convenient districts, and each district shall contain not less than three nor more than twelve counties.

SEC. 14. The circuit court shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases only when the principal of the sum in controversy exceeds fifty dollars.

SEC. 15. A circuit court shall be held in each county of this State, at least twice in each year; and the judges of said courts shall interchange circuits with each other, in such manner as may be prescribed by law, and shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 16. A separate superior court of chancery shall be established, with full jurisdiction in all matter of equity: *Provided, however,* The legislature may give to the circuit courts of each county equity jurisdiction in all cases where the value of the thing, or amount in controversy, does not exceed five hundred dollars; also, in all cases of divorce, and for the foreclosure of mortgages. The chancellor shall be elected by the qualified electors of the whole State, for the term of six years, and shall be at least thirty years old at the time of his election.<sup>a</sup>

SEC. 17. The style of all process shall be "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of the State of Mississippi, and shall conclude "against the peace and dignity of the same."

SEC. 18. A court of probates shall be established in each county of this State, with jurisdiction in all matters testamentary and of administration in orphans' business and the allotment of dower, in cases of idiotcy and lunacy, and of persons *non compos mentis*. The judge of said court shall be elected, by the qualified electors of the respective counties, for the term of two years.

SEC. 19. The clerk of the high court of errors and appeals shall be appointed by said court for the term of four years, and the clerks of the circuit, probate, and other inferior courts shall be elected by the qualified electors of the respective counties, and shall hold their offices for the term of two years.

SEC. 20. The qualified electors of each county shall elect five persons for the term of two years, who shall constitute a board of police for each county, a majority of whom may transact business; which body shall have full jurisdiction over roads, highways, ferries, and bridges, and all other matters of county police, and shall order all county election to fill vacancies that may occur in the offices of their respective counties; the clerk of the court of probate shall be the clerk of the board of county police.<sup>b</sup>

SEC. 21. No person shall be eligible as a member of said board who shall not have resided one year in the county; but this qualification

<sup>a</sup>Amended: see page 2065.

<sup>b</sup>Amended: see page 2064.

shall not extend to such new counties as may hereafter be established until one year after their organization; and all vacancies that may occur in said board shall be supplied by election as aforesaid to fill the unexpired term.

SEC. 22. The judges of all the courts of the State, and also the members of the board of county police, shall, in virtue of their offices, be conservators of the peace, and shall be by law vested with ample powers in this respect.

SEC. 23. A competent number of justices of the peace and constables shall be chosen in each county, by the qualified electors thereof, by districts, who shall hold their offices for the term of two years. The jurisdiction of justices of peace shall be limited to causes in which the principal of the amount in controversy shall not exceed fifty dollars. In all causes tried by a justice of the peace, the right of appeal shall be secured under such rules and regulations as shall be prescribed by law.

SEC. 24. The legislature may, from time to time, establish such other inferior courts as may be deemed necessary, and abolish the same whenever they shall deem it expedient.

SEC. 25. There shall be an attorney-general elected by the qualified electors of the State; and a competent number of district attorneys shall be elected by the qualified voters of their respective districts, whose compensation and term of service shall be prescribed by law.

SEC. 26. The legislature shall provide by law for determining contested elections of judges of the high court of errors and appeals, of the circuit and probate courts, and other officers.

SEC. 27. The judges of the several courts of this State, for wilful neglect of duty or other reasonable cause, shall be removed by the governor on the address of two-thirds of both houses of the legislature; the address to be by joint vote of both houses. The cause or causes for which such removal shall be required shall be stated at length in such address, and on the journals of each house. The judge so intended to be removed shall be notified and admitted to a hearing in his own defence before any vote for such address shall pass; the vote on such address shall be taken by yeas and nays, and entered on the journals of each house.

SEC. 28. Judges of probate, clerks, sheriffs, and other county officers, for wilful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and trial by a petit jury, and upon conviction shall be removed from office.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the said speaker shall open and publish



them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature, in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, and shall not be capable of holding the office more than four years in any term of six years.

SEC. 4. He shall, at stated times, receive for his services a compensation which shall not be increased or diminished during the term for which he shall be elected.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information in writing from the officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy or from disease; and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give to the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines, and in cases of forfeiture, to stay the collection until the end of the next session of the legislature, and to remit forfeitures, by and with the advice and consent of the senate. In cases of treason, he shall have power to grant reprieves, by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the great seal, and signed by the governor, and be attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the great seal of the State of Mississippi.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required of him by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objection, to the house in which it shall have originated, which shall enter the objections at large upon their journals and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law. But in such case the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 16. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in the case of a bill.

SEC. 17. Whenever the office of governor shall become vacant by death, resignation, removal from office, or otherwise, the president of the senate shall exercise the office of governor until another governor shall be duly qualified; and in case of the death, resignation, removal from office, or other disqualification of the president of the senate so exercising the office of governor, the speaker of the house of representatives shall exercise the office until the president of the senate shall have been chosen; and when the office of governor, president of the senate, and speaker of the house shall become vacant, in the recess of the senate, the person acting as secretary of state for the time being shall, by proclamation, convene the senate, that a president may be chosen to exercise the office of governor.

SEC. 18. When either the president or speaker of the house of representatives shall so exercise said office, he shall receive the compensation of the governor only, and his duties as president or speaker shall be suspended, and the senate or house of representatives, as the case may be, shall fill the vacancy until his duties as governor shall cease.

SEC. 19. A sheriff, and one or more coroners, a treasurer, surveyor, and ranger, shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed, except that the coroner shall hold his office until his successor be duly qualified.

SEC. 20. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

#### MILITIA

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of this State in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Commissioned officers of the militia (staff-officers and the officers of volunteer companies excepted) shall be elected by the persons liable to perform military duty and the qualified electors within their respective commands, and shall be commissioned by the governor.

SEC. 3. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and to repel invasion.

## ARTICLE VI

### IMPEACHMENTS

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment, according to law, as in other cases.

## ARTICLE VII

### GENERAL PROVISIONS

SECTION 1. Members of the legislature, and all officers, executive and judicial, before they enter upon the duties of their respective offices, shall take the following oath or affirmation, to wit: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the constitution of the State of Mississippi, so long as I continue a citizen thereof, and that I will faithfully discharge, to the best of my abilities, the duties of the office of ———, according to law: So help me God."

SEC. 2. The legislature shall pass such laws to prevent the evil practice of duelling as they may deem necessary, and may require all officers, before they enter upon the duties of their respective offices, to take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I have not been engaged in a duel, by sending or accepting a challenge to fight a duel, or by fighting a duel, since the first day of January, in the year of our Lord one thousand eight hundred and thirty-three, nor will I be so engaged during my continuance in office: So help me God."

SEC. 3. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 4. Every person shall be disqualified from holding an office or place of honor or profit under the authority of this State who shall

be convicted of having given or offered any bribe to secure his election. Laws shall be made to exclude from office or suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influences therein, from power, bribery, tumult, or other improper conduct.

SEC. 5. No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.

SEC. 6. No law of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

SEC. 7. No money shall be drawn from the treasury but in consequence of an appropriation made by law, nor shall any appropriation of money for the support of an army be made for a longer term than one year.

SEC. 8. No money from the treasury shall be appropriated to objects of internal improvement, unless the bill for that purpose be passed by two-thirds of both branches of the legislature; and a regular statement and account of the receipts and expenditures of public moneys shall be published annually.

SEC. 9. No law shall ever be passed to raise a loan of money upon the credit of the State, or to pledge the faith of the State, for the redemption of any loan or debt, unless such law be proposed in the senate or house of representatives, and be agreed to by a majority of the members of each house, and entered on the journals with the yeas and nays taken thereon, and be referred to the next succeeding legislature, and published for three months previous to the next regular election, in three newspapers of this State; and unless a majority of each branch of the legislature, so elected, after such publication, shall agree to and pass such a law; and in such case the yeas and nays shall be taken and entered on the journals of each house: *Provided*, That nothing in this section shall be so construed as to prevent the legislature from negotiating a further loan of one and a half millions of dollars, and vesting the same in stock reserved to the State by the charter of the Planters' Bank of the State of Mississippi.

SEC. 10. The legislature shall direct, by law, in what manner and in what courts suits may be brought against the State.

SEC. 11. Absence on business of this State, or of the United States, or on a visit, or necessary private business, shall not cause a forfeiture of citizenship or residence once obtained.

SEC. 12. It shall be the duty of the legislature to regulate, by law, the cases in which deductions shall be made from salaries of public officers for neglect of duty in their official capacity, and the amount of such deduction.

SEC. 13. No member of Congress, nor any person holding any office of profit or trust under the United States, (the office of postmaster excepted,) or any other State of the Union, or under any foreign power, shall hold or exercise any office of trust or profit under this State.

SEC. 14. Religion, morality, and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this State.

SEC. 15. Divorces from the bonds of matrimony shall not be granted but in cases provided for by law, by suit in chancery.

SEC. 16. Returns of all elections by the people shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 17. No new county shall be established by the legislature which shall reduce the county or counties, or either of them, from which it may be taken, to less contents than five hundred and sixty-six square miles; nor shall any new county be laid off of less contents.

SEC. 18. The legislature shall have power to admit to all the rights and privileges of free white citizens of this State all such persons of the Choctaw and Chickasaw tribes of Indians as shall choose to remain in this State, upon such terms as the legislature may from time to time deem proper.

#### SLAVES

SECTION 1. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, unless where the slave shall have rendered to the State some distinguished service; in which case the owner shall be paid a full equivalent for the slave so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such immigrants: *And provided also*, That laws may be passed to prohibit the introduction into this State of slaves who may have committed high crimes in other States. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to oblige the owners of slaves to treat them with humanity; to provide for them necessary clothing and provisions; to abstain from all injuries to them, extending to life or limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 2. The introduction of slaves into this State as merchandise, or for sale, shall be prohibited from and after the first day of May, eighteen hundred and thirty-three: *Provided*, That the actual settler or settlers shall not be prohibited from purchasing slaves in any State in this Union, and bringing them into this State for their own individual use, until the year eighteen hundred and forty-five.

SEC. 3. In the prosecution of slaves for crimes of which the punishment is not capital, no inquest by a grand jury shall be necessary; but the proceedings in such cases shall be regulated by law.

#### MODE OF REVISING THE CONSTITUTION

Whenever two-thirds of each branch of the legislature shall deem any change, alteration, or amendment necessary to this constitution, such proposed change, alteration, or amendment shall be read and passed by a majority of two-thirds of each house, respectively, on each day, for three several days. Public notice thereof shall then be given by the secretary of state, at least six months preceding the next general election, at which the qualified electors shall vote directly for



or against such change, alteration, or amendment; and if it shall appear that a majority of the qualified electors voting for members of the legislature shall have voted for the proposed change, alteration, or amendment, then it shall be inserted by the next succeeding legislature as a part of this constitution, and not otherwise.

#### SCHEDULE

SECTION 1. All rights vested, and all liabilities incurred, shall remain the same as if this constitution had not been adopted.

SEC. 2. All suits at law or in equity, now pending in the several courts of this State, may be transferred to such courts as may have proper jurisdiction thereof.

SEC. 3. The governor and all officers, civil and military, now holding commissions under the authority of this State, shall continue to hold and exercise their respective offices until they shall be superseded, pursuant to the provisions of this constitution, and until their successors be duly qualified.

SEC. 4. All laws now in force in the State, not repugnant to this constitution, shall continue to operate until they shall expire by their own limitation, or be altered or repealed by the legislature.

SEC. 5. Immediately upon the adoption of this constitution, the president of this convention shall issue writs of election directed to the sheriffs of the several counties, requiring them to cause an election to be held on the first Monday and day following in December next, for members of the legislature, at the respective places of holding elections in said counties, which elections shall be conducted in the manner prescribed by the existing election-laws of the State; and the members of the legislature thus elected shall continue in office until the next general election, and shall convene at the seat of government on the first Monday in January, eighteen hundred and thirty-three; and shall, at their first session, order an election to be held in every county of this State, on the first Monday in May and day following, eighteen hundred and thirty-three, for all State and county officers under this constitution, (members of the legislature excepted,) and the other officers then elected shall continue in office until the succeeding general election and after, in the same manner as if the election had taken place at the time last aforesaid.

SEC. 6. Until the first enumeration shall be made, as directed by this constitution, the apportionment of senators and representatives among the several districts and counties in this State shall remain as at present fixed by law.

P. RUTILIUS R. PRAY, *President*.

JOHN H. MALLORY, *Secretary*.

#### AMENDMENTS TO THE CONSTITUTION OF 1832 \*

(Amendment I)

SEC. 2. The legislature shall have, and are hereby vested with power to pass such laws regulating or prohibiting the introduction of slaves into this State, as may be deemed proper and expedient.

[Inserted by resolution approved February 2, 1846.] See note, p. 2064.

## (Amendment II)

ART. IV. SEC. 20. The qualified electors of each county shall elect five persons, by districts, for the term of two years, who shall constitute a board of police for each county, a majority of whom may transact business; which body shall have full jurisdiction over roads, highways, ferries and bridges; and all other matters of county policy, and shall order all county elections to fill vacancies that may occur in the offices of their respective counties. The clerk of the court of probate shall be the clerk of the board of county police.

[Inserted by act approved March 12, 1852.] <sup>a</sup>

## (Amendment III)

The following section to be numbered seven, added to the schedule, and made part of the constitution, to take the place of all conflicting provisions now contained in the constitution, to wit:

SEC. 7. All general elections by the people of this State shall be held on the first Monday of October; and be concluded in one day. On the first Monday of October, eighteen hundred and fifty-seven, and biennially thereafter, an election shall be held for Representatives in Congress and all State officers and members of the legislature, except for officers and senators entitled to hold over after November, eighteen hundred and fifty-seven, who shall continue in office until their successors are entitled to succeed them therein. The legislature shall convene on the first Monday of November, eighteen hundred and fifty-seven; and biennially thereafter, but may be specially convoked by the governor at other times. The governor's official term shall commence on the third Monday of November, and that of secretary of state, auditor of public accounts, state treasurer, and attorney general, on the first Monday of January next after his and their election; but the attorney general shall hold his office as heretofore, for the term of four years. On the first Monday of October, eighteen hundred and fifty-eight, and biennially thereafter, an election shall be held for all county, district, judicial and ministerial officers, (except officers who may then be entitled to hold over after January, eighteen hundred and fifty-nine, or until the time of holding another election,) and the official terms of all such officers then and thereafter elected, shall commence on the first Monday of January next after this election; but all such officers elected in eighteen hundred and fifty-five, or previously, whose official terms, in the absence of this provision, would expire in November, eighteen hundred and fifty-seven, shall continue in office until the first Monday of January, eighteen hundred and fifty-nine.

[Inserted by act approved February 2, 1856.]

## (Amendment IV)

Additional article added as follows, to wit:

ART. 9. All public officers in this State, legislative, executive and judicial, whose terms of office expire at the general election to be held

<sup>a</sup> See Journal of the Convention of the State of Mississippi, and the act calling the same; with the Constitution of the United States, and Washington's Farewell Address. Published by order of the Convention. Jackson: Thomas Palmer, Convention Printer. 1851. pp. 79.

in the year one thousand eight hundred and fifty-seven, or at any subsequent general election, shall continue to hold their offices until the first Monday of January next following the expiration of said terms, and until their successors shall be qualified: Provided, such of said officers as are required to give bond for the discharge of their duties, shall give bond and security for said extended term, as may be provided by the legislature: and the terms of office of all officers chosen at the general election in the year eighteen hundred and fifty-seven, or at any subsequent general election, shall commence on the first Monday of January next succeeding the election, and shall continue for the time now fixed by the constitution, and until their successors shall be qualified.

[Proposed by act approved March 2, 1854.]

[Inserted by act approved February 6, 1856.]

(Amendment V)

ART. IV. Sec. 16. Chancery courts, with full jurisdiction in all matters of equity, shall be held in each judicial district, by the circuit judge thereof, at such time and place as may be directed by law. The superior court of chancery and the several vice-chancery courts, shall continue as now organized, until the first Monday of November, one thousand eight hundred and fifty-seven, for the disposition of causes now depending therein. The legislature shall provide by law for the preservation of the records of the said superior court of chancery, and of said vice-chancery courts, and also for the transfer of all causes that may remain undetermined therein, to other courts for final decision.

[Inserted by act approved February 6, 1856.]

(Amendment VI)

That the following words be and they are hereby inserted in the constitution of this State and form a part thereof, to wit: "That the amendment to the constitution voted for by a majority of the qualified electors in this State at the last general election, known as the tenure of office amendment, and which was added to the constitution by an act of the legislature of this State, approved the sixth day of February, eighteen hundred and fifty-six, be abrogated, so far as it fixes the terms of office of members of the legislature, and in lieu thereof the following section be adopted and inserted in the constitution: 'Sec. —. The term of office of members of the legislature shall be for the period now fixed by the constitution, and shall commence from and after their election, and expire at the next general election thereafter at which their successors are elected.'"

Approved, November 19, 1857.

(Amendment VII)

SECTION 1. The institution of slavery having been destroyed in the State of Mississippi, neither slavery nor involuntary servitude otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall hereafter exist in this State; and the legislature at its next session, and hereafter as the public welfare may

require, shall provide by law for the protection and security of the person and property of the freedmen of the State, and guard them and the State against any evils that may arise from their sudden emancipation.

[Inserted by ordinance, adopted and approved, August 21, 1865.]

(Amendment VIII)

First. That the constitution shall be amended by abolishing and striking out sections one, two and three of article seven, under the title "slaves," and amendment number one, approved February second, eighteen hundred and forty-six, relative to slaves.

Second. That a provision in the following language shall be inserted in the constitution as article eight, to wit: "The institution of slavery having been destroyed in the State of Mississippi, neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall hereafter exist in this State; and the legislature at its next session, and thereafter as the public welfare may require, shall provide by law for the protection and security of the person and property of the freedmen of this State, and guard them and the State against any evils that may arise from their sudden emancipation."

Third. That the twelfth section of the declaration of rights be amended by the insertion of the following proviso, to wit: *Provided*. That the legislature, in cases of petit larceny, assault, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court or courts as may be established by the legislature, and the proceedings in such cases shall be regulated by law."

Adopted, August 21, 1865.

(Amendment IX)

An Ordinance to amend seventh section of the fourth article of the constitution.

Amend the seventh section of the fourth article of the constitution of the State, so as to read as follows: "The high court of errors and appeals shall be held at least once in each year, at the seat of government, and at such other place or places in the State as the legislature may direct."

Adopted, August 23, 1865.

(Amendment X)

An Ordinance to amend eighteenth section of the fourth article of the Constitution.

SECTION 1. *Be it ordained and declared, and it is hereby ordained and declared*, That the eighteenth section of the fourth article of the Constitution of the State of Mississippi, be so amended as to read as follows, to wit: "A court of probates shall be established in each county in this State, with jurisdiction in all matters testamentary, and of administration in minors' business, and allotment of dower,

in cases of idiocy and lunacy, and of persons non compos mentis. The judge of said Court shall be elected by the qualified electors of the respective counties for the term of two years."

Adopted, August 23, 1865.

(Amendment XI)

An Ordinance concerning the compensation of members of the legislature.

SECTION 1. *Be it ordained by the people of the State of Mississippi in Convention assembled*, That the twenty-fifth section of article three, of the State constitution, so far as it prohibits an increase of the compensation of members of the legislature from taking effect during the session at which it is made, be and the same is hereby suspended until after the close of the next session of that body.

Adopted, August 23, 1865.

(Amendment XII)

An Ordinance in relation to the ordinance of secession and other ordinances and resolutions, adopted by a former convention held in the city of Jackson on the seventh January, eighteen hundred and sixty-one, and on the twenty-fifth day of March, eighteen hundred and sixty-one.

SECTION 1. *Be it ordained by the people of the State of Mississippi in Convention assembled*, That an ordinance passed by a former convention of the State of Mississippi, on the ninth day of January, eighteen hundred and sixty-one, entitled "An ordinance to dissolve the union between the State of Mississippi and other States united with her under the compact entitled, 'The Constitution of the United States of America,'" is hereby declared to be null and void.

(Amendment XIII)\*

ARTICLE I. SEC. 12. So altered and amended as to read: "That no person shall, for any indictable offence, be proceeded against criminally by information; except in cases arising in the land or naval forces, or in the militia when in actual service, or by leave of the court, for misdemeanor in office: *Provided*, That the legislature in case of petit larceny, assault, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors, of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court or courts as may be established by the legislature; and the proceedings in such cases shall be regulated by law."

ART. VIII. So altered and amended as to read: "The institution of slavery having been destroyed in the State of Mississippi, neither slavery nor involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall hereafter exist in this State; and the legislature at its next session, and thereafter as the public welfare may require, shall provide by law for the protection and security of the person and property of the

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\* Journal of the Proceedings and Debates in the Constitutional Convention of the State of Mississippi, August, 1865. By order of the Convention, Jackson, Miss.: E. M. Yerger, State Printer, 1865, pp. 296, appendix.



freedmen of the State, and guard them and the State against any evils that may arise from their sudden emancipation.”

[Ratified August 21, 1865.]

(Amendment XIV)

An Ordinance in relation to special courts of equity.

SECTION 1. *Be it ordained*, That the special courts of equity heretofore, and that may be hereafter established in this State by the provisional governor thereof, be and the same are hereby recognised to be in existence, but that in all cases the right and benefit of exceptions, bills of exceptions, writs of error, supersedeas and appeals from said court or courts, to the high court of errors and appeals, for the revision and judgment of the latter court, shall be and are hereby secured to any party litigant in said court or courts, who may desire the same, as is now provided for and regulated by the laws of the State in cases of exceptions, writs of error, supersedeas and appeals from the circuit and chancery courts of this State to the said court of errors and appeals; and the said court of errors and appeals shall take cognizance and jurisdiction of such cases, as in the case of appeal and writ of error from the circuit and chancery courts of this State: *Provided*, That such special courts and the proceedings had therein, after the courts known to the constitution and laws of this State are established, shall not be recognised beyond the then unfinished and instituted business of the same; and the records and papers of said special courts shall, upon their expiration, be deposited in the office of the clerks of the several circuit courts of this State, in whose counties the said special court or courts are, or may be held, for the safe-keeping thereof, and may be authenticated thereafter as other records of said circuit and chancery courts.

Adopted, August 23, 1865.

(Amendment XV)

An Ordinance to confer certain powers upon the legislature.

SECTION 1. *Be it ordained*, That the legislature of this State shall have full and complete, ample and plenary power and right to ascertain, adjust and settle, any and all pecuniary liability and indebtedness of this State, or the citizens thereof, to the Government of the United States of America, under and by reason of the revenue laws of the latter, either past, present or future; and to provide by law or otherwise, in such way and manner, and on such terms as the Legislature may, in its opinion, deem or declare to be most wise, judicious, and expedient, for the ascertainment, adjustment, and present or ultimate settlement and payment of the same: hereby intending to confer, and actually conferring upon the legislature of this State, full and absolute power, and right to pledge and use the faith and credit of the State, and to do and perform whatever is or may be necessary, proper, or expedient in the premises aforesaid.

Adopted, August 24, 1865.

## CONSTITUTION OF MISSISSIPPI—1868 \* a

## PREAMBLE

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Mississippi, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

## ARTICLE I

## BILL OF RIGHTS

SECTION 1. All persons resident in this State, citizens of the United States, are hereby declared citizens of the State of Mississippi.

SEC. 2. No person shall be deprived of life, liberty, or property, except by due process of law.

SEC. 3. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 4. The freedom of speech and of the press shall be held sacred, and in all indictments for libel the jury shall determine the law and the facts, under the direction of the court.

SEC. 5. No person's life or liberty shall be twice placed in jeopardy for the same offence.

SEC. 6. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

SEC. 7. In all criminal prosecutions the accused shall have a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have a compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictment or information a speedy and public trial by an impartial jury of the county where the offence was committed; and he shall not be compelled to give evidence against himself.

SEC. 8. Cruel or unusual punishment shall not be inflicted, nor shall excessive fines be imposed; excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or presumption great.

SEC. 9. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

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\* Verified from "The Constitution of the United States with amendments; and the constitution of the State of Mississippi, adopted in convention 15th day of May, A. D. 1868, and ratified by the people 1st day of December, A. D. 1869. Printed by order of the Legislature. Jackson, Miss.: Fisher & Kimball, State Printers, 1870." pp. 23-49.

\* This constitution was framed by a convention called under the reconstruction acts of Congress, which met at Jackson January 7, 1868, and completed its labors May 15, 1868. It was submitted to the people June 28, 1868, and rejected, receiving 56,231 votes for adoption against 63,860 votes, but when submitted a second time, November 30 and December 1, 1868, it was adopted.

SEC. 10. Private property shall not be taken for public use except upon due compensation first being made to the owner or owners thereof in a manner to be provided for by law.

SEC. 11. There shall be no imprisonment for debt.

SEC. 12. The right of trial by jury shall remain inviolate.

SEC. 13. No property qualification shall ever be required of any person to become a juror.

SEC. 14. The people shall be secure in their persons, houses, and possessions, from unreasonable seizure or search, and no warrant shall be issued without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.

SEC. 15. All persons shall have a right to keep and bear arms for their defence.

SEC. 16. The rights of married women shall be protected by law in property owned previous to marriage; and also in all property acquired in good faith by purchase, gift, devise, or bequest, after marriage: *Provided*, That nothing herein contained shall be so construed as to protect said property from being applied to the payment of their lawful debts.

SEC. 17. No property qualification for eligibility to office shall ever be required.

SEC. 18. No property nor educational qualification shall ever be required for any person to become an elector.

SEC. 19. There shall be neither slavery nor involuntary servitude in this State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

SEC. 20. The right to withdraw from the Federal Union on account of any real or supposed grievances shall never be assumed by this State, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this State to the government of the United States.

SEC. 21. No public money or moneys shall be appropriated for any charitable or other public institutions in this State making any distinction among the citizens thereof, *Provided*, That nothing herein contained shall be so construed as to prevent the legislature from appropriating the school-fund in accordance with the article in this constitution relating to public schools.

SEC. 22. No distinction shall ever be made by law between citizens and alien friends in reference to the possession, enjoyment, or descent of property.

SEC. 23. No religious test as a qualification for office shall ever be required, and no preference shall ever be given by law to any religious sect or mode of worship, but the free enjoyment of all religious sentiments and the different modes of worship shall ever be held sacred: *Provided*, The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the State.

SEC. 24. The right of all citizens to travel upon all public conveyances shall not be infringed upon nor in any manner abridged in this State.

SEC. 25. The military shall be in strict subordination to the civil power.

SEC. 26. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 27. No person's life shall be perilled by the practice of duelling, and any person who shall hereafter fight a duel, or assist in the same as second, or send, accept, or knowingly carry a challenge therefor, or go out of the State to fight a duel, shall be disqualified from holding any office under this constitution, and shall forever be disfranchised in this State.

SEC. 28. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

SEC. 29. No person shall ever be elected or appointed to any office in this State for life or during good behavior, but the term of all offices shall be for some specified period.

SEC. 30. No person shall be debarred from prosecuting or defending any civil cause for or against him or her self before any tribunal in this State, by him or her self, or counsel, or both.

SEC. 31. No person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, or by leave of the court, for misdemeanor in office: *Provided*, That the legislature, in cases of petit larceny, assaults, assault and battery, affray, riot, unlawful assembly, drunkenness, vagrancy, and other misdemeanors of like character, may dispense with an inquest of a grand jury, and may authorize prosecutions before justices of the peace or such other inferior court or courts as may be established by the legislature, and the proceedings in such cases shall be regulated by law.

SEC. 32. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people.

## ARTICLE II

### BOUNDARIES OF THE STATE

The limits and boundaries of the State of Mississippi shall remain as now established by law.

## ARTICLE III

### DISTRIBUTION OF POWERS

SECTION 1. The powers of government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate magistracy, to wit: Those which are legislative to one; those which are judicial to another; and those which are executive to another.

SEC. 2. No person or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

## ARTICLE IV

## LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be vested in the legislature, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall consist of members to be chosen every second year by the qualified electors of the several counties.

SEC. 3. No person shall be a member of the house of representatives who shall not be an elector under this constitution; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent.

SEC. 4. The senate shall consist of members to be chosen every four years by the qualified electors of the several districts.

SEC. 5. No person shall be a senator who shall not have attained the age of twenty-five years, who shall not have been an inhabitant of the State one year, and who shall not have an actual residence in the district he may be chosen to represent.

SEC. 6. The political year shall begin on the first Monday of January, and the legislature shall meet annually on the first Tuesday after first Monday in January, at the seat of government, unless sooner convened by the governor, until altered by law.

SEC. 7. All general elections shall be by ballot, and shall commence and be holden every two years, on the first Tuesday after the first Monday in November, until altered by law; and the electors, in all cases except in cases of treason, felony, and breach of the peace, shall be privileged from arrest during their attendance of elections, and in going to and returning therefrom.

SEC. 8. Election for members of the legislature shall be held in the several counties and districts as provided by law.

SEC. 9. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature, and the persons thereupon chosen shall hold their seats for the unexpired term.

SEC. 10. Each house shall appoint its own officers, and shall judge of the qualifications, return, and election of its own members.

SEC. 11. The senate shall choose a president *pro tempore*, to act in the absence or disability of the lieutenant-governor.

SEC. 12. A majority of each house shall constitute a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each shall provide.

SEC. 13. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 14. Each house may determine rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of the members present, expel a member; but no member shall be expelled a second time for the same offence. They shall each, from time to time, publish a journal of their proceedings, except such parts as may, in their opinion, require secrecy; and the yeas and nays on any question shall be entered on the journal at the request of one-tenth of the members present: *Provided*, That the yeas and



nays shall always be entered on the journal on the passage of a bill appropriating money.

SEC. 15. The doors of each house, when in session, or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish by fine and imprisonment any person not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in their presence, or in any way disturb their deliberations during the session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 16. No person liable for public moneys unaccounted for shall be eligible to a seat in either house of the legislature, or to any office of profit or trust, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 17. No person shall be eligible to any office of profit or trust, nor shall he be permitted to exercise the right of suffrage within this State, who shall have been convicted of bribery, perjury, or other infamous crime.

SEC. 18. Any person who shall have been convicted of giving or offering, directly or indirectly, any bribe to procure his election or appointment, and any person who shall give or offer any bribe to procure the election or appointment of any person to office, shall, on conviction thereof, be disqualified from being an elector or holding any office of profit or trust under the laws of the State.

SEC. 19. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and for fifteen days before the commencement and after the termination of each session.

SEC. 20. The members of the legislature shall severally receive from the public treasury compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during the session at which it is made.

SEC. 21. The legislature shall direct by law in what courts and in what manner suits may be brought against the State.

SEC. 22. The legislature shall not have power to pass any bill of divorce, but may prescribe by law the manner in which cases shall be investigated in the courts of justice, and divorces granted.

SEC. 23. Bills may originate in either house, and be amended or rejected in the other, and every bill shall be read on three different days, in each house, unless two-thirds of the house where the same is pending shall dispense with the rules; and every bill, having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives, in open session.

SEC. 24. Every bill which has passed both houses shall be presented to the governor of the State. If he approves, he shall sign it; but if he does not approve, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and, if approved by two-thirds of that house, it shall become a law; but in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal

of each house respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it has been presented to him, it shall be a law in like manner as if he had signed it, unless the legislature, by adjournment, prevented its return, in which case it shall be a law, unless sent back within three days after its next meeting.

SEC. 25. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment,) shall be presented to the governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by two-thirds of both houses, according to the rules of limitation prescribed in all cases of a bill.

SEC. 26. No money shall be drawn from the treasury except on appropriations made by law.

SEC. 27. The house of representatives shall have the sole power of impeachment, but two-thirds of all the members present must concur therein. All impeachments shall be tried by the senate, and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence.

SEC. 28. The governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office.

SEC. 29. When the governor shall be tried, the chief justice of the supreme court shall preside, and no person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 30. Judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted shall nevertheless be subject to indictment, trial, judgment, and punishment according to law.

SEC. 31. For reasonable cause, which shall not be sufficient ground of impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts; provided the cause or causes of removal be spread on the journal, and the party charged be notified of the same before the vote is finally taken and decided, and shall have an opportunity to be heard by himself or counsel, or both.

SEC. 32. The style of the laws of the State shall be, "*Be it enacted by the legislature of the State of Mississippi.*"

SEC. 33. The legislature shall provide for the enumeration of the whole number of inhabitants, and of the qualified electors of the State, once in every ten years; and the first enumeration shall be ordered at the first meeting of the legislature under this constitution.

SEC. 34. The number of representatives shall, at the several periods of making such enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not be less than one hundred nor more than one hundred and twenty.

SEC. 35. The number of senators shall, upon each enumeration made, be apportioned according to the number of qualified electors in the several districts, and shall never be less than one-fourth nor more than one-third the whole number of representatives.

SEC. 36. The senators, on being convened after the first election, shall be divided by lot from their respective congressional districts

into two classes, as nearly equal as can be, and the seats of the first class shall be vacated at the expiration of the second year.

SEC. 37. The legislature shall provide for the organization of new counties, locating county-seats, and changing county-lines; but no county shall be organized nor the lines of any county changed so as to include an area of less than four hundred nor more than six hundred and twenty-five square miles.

SEC. 38. No senator or representative, during the term for which he was elected, shall be appointed to any office of profit under this State, which shall have been created or the emoluments of which have been increased during the time such senator or representative was in office, except to such offices as may be filled by an election of the people.

SEC. 39. The legislature shall provide by law for determining contested elections.

## ARTICLE V

### EXECUTIVE

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for four years.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the said speaker shall open and publish them in presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature in such manner as shall be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, and shall have been a citizen of the United States twenty years, and shall have resided in this State two years next preceding the day of his election.

SEC. 4. He shall receive for his services such compensation as shall be provided by law.

SEC. 5. He shall be commander-in-chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information, in writing, from the officers in the executive department, on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become dangerous from an enemy, or from disease; and in case of disagreement between the two houses with respect to time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. It shall be his duty to see that the laws are faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons, and remit fines, and in cases of forfeiture to stay the collection until the end of the next session of the legislature, and to remit forfeitures by and with the consent of the senate. In cases of treason he shall have power to grant reprieves by and with the consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. There shall be a seal of the State kept by the governor, and used by him officially, and be called "the Great Seal of the State of Mississippi."

SEC. 12. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the great seal of State, and signed by the governor, and be attested by the secretary of state.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. There shall be a lieutenant-governor, who shall be elected at the same time, in the same manner, and for the same term, and shall possess the same qualifications as the governor.

SEC. 15. He shall, by virtue of his office, be president of the senate. In committee of the whole he may debate on all questions, and when there is an equal division in the senate, or on a joint vote of both houses, he shall give the casting vote.

SEC. 16. He shall receive for his services such compensation as may be provided by law.

SEC. 17. When the office of governor shall become vacant, by death or otherwise, the lieutenant-governor shall possess the powers and discharge the duties of said office, and receive the same compensation as the governor during the remainder of the said term. When the governor shall be absent from the State, or unable from protracted illness to perform the duties of his office, the lieutenant-governor shall discharge the duties of said office, and receive said compensation until the governor be able to resume his duties; but if, from disability or otherwise, the lieutenant-governor shall be incapable of performing said duties, or if he be absent from the State, the president of the senate *pro tempore* shall act in his stead, but if there be no such president, or if he be disqualified by like disability, or be absent from the State, then the speaker of the house of representatives shall assume the office of governor and perform said duties, and receive the same compensation as the governor, and in case of the inability of the foregoing officers to discharge the duties of governor, the secretary of state shall convene the senate to elect a president *pro tempore*.

SEC. 18. In case the election for lieutenant-governor shall be contested, it shall be decided in the same manner as that of the governor.

SEC. 19. The secretary of state shall be elected by the qualified electors of the State; shall be at least twenty-five years of age, and a citizen of the State one year next preceding the day of his election, and shall continue in office during the term of four years; he shall keep a correct register of all the official acts and proceedings of the governor; and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before the legislature, and shall perform such other duties as may be required of him by law.

SEC. 20. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of four years, unless sooner removed, and shall possess the same qualifications as the secretary of state; and, together with the last-named officer, shall receive such compensation as may be provided by law.

SEC. 21. A sheriff, coroner, treasurer, assessor, and surveyor shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed.

SEC. 22. All officers named in this article shall hold their offices during the term for which they were elected, unless removed by impeachment or otherwise, and until their successors shall be duly qualified to enter on the discharge of their separate duties.

## ARTICLE VI

### JUDICIARY

SECTION 1. The judicial power of the State shall be vested in a supreme court, and such other courts of law and equity as are hereinafter provided for in this constitution.

SEC. 2. The supreme court shall consist of three judges, who shall be appointed by the governor, by and with the advice and consent of the senate, any two of whom, when convened, shall form a quorum. The legislature shall divide the State into three districts, and the governor, by and with the advice and consent of the senate, shall appoint one judge for each district.

SEC. 3. The office of one of said judges shall be vacated in three years, one in six years, and one in nine years, so that at the expiration of every three years one of said judges shall be appointed as aforesaid. The term of office of the judges of the supreme court shall be nine years.

SEC. 4. The supreme court shall have no jurisdiction but such as properly belongs to a supreme court.

SEC. 5. All vacancies which may occur in said court, from death, resignation, or removal, shall be filled by appointment, as aforesaid: *Provided, however,* That if any vacancy shall occur during the recess of the legislature, the governor shall appoint a successor, who shall hold his office until the next meeting of the legislature.

SEC. 6. No person shall be eligible to the office of judge of the supreme court who shall not have attained the age of thirty years at the time of his appointment, and who shall not have been for two years immediately preceding a citizen of the State.

SEC. 7. The supreme court shall be held twice in each year at the seat of government, at such times as the legislature may prescribe.

SEC. 8. Immediately upon the first appointment of judges as aforesaid, the governor, in the presence of, and with the assistance of, the president of the senate and secretary of state, shall determine, by lot, which of said judges shall serve for the term of three years and which shall serve for the term of six years and which shall serve for the term of nine years, and it shall be the duty of the governor to issue commissions accordingly.

SEC. 9. No judge of said court shall sit on the trial of any cause where the parties, or either of them, shall be connected with him by



affinity or consanguinity, or where he may be interested in the same, except by the consent of the judges and of the parties, and whenever a quorum of said court are situated as aforesaid, the governor of the State shall, in such cases, especially commission two or more men of law knowledge for the determination thereof.

SEC. 10. The judges of said court shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 11. The judges of the circuit court shall be appointed by the governor, with the advice and consent of the senate, and shall hold their office for the term of six years.

SEC. 12. No person shall be eligible to the office of judge of the circuit court who shall not, at the time of his appointment, have attained the age of twenty-six years, and shall have been two years a citizen of the State.

SEC. 13. The State shall be divided into convenient judicial districts.

SEC. 14. Circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State; but in civil cases only when the principal amount in controversy exceeds one hundred and fifty dollars.

SEC. 15. A circuit court shall be held at least twice in each year, and the judges of said courts may interchange circuits with each other, in such manner as may be prescribed by law, and shall receive for their services a compensation to be fixed by law, which shall not be diminished during their continuance in office.

SEC. 16. Chancery courts shall be established in each county in the State, with full jurisdiction in all matters in equity, and of divorce and alimony; in matters testamentary, and of administration in minors' business, and allotment of dower, and in cases of idiocy, lunacy, and persons *non compos mentis*.

SEC. 17. The legislature shall divide the State into a convenient number of chancery districts, to be composed of not more than four counties. Chancellors shall be appointed in the same manner as the judges of the circuit courts. Their qualifications shall be regulated by law, and they shall hold their office for the term of four years. They shall hold a court in each county at least four times in each year, and shall receive such compensation as may be provided by law.

SEC. 18. The style of all process shall be, "The State of Mississippi," and all prosecutions shall be carried on in the name and by the authority of the State of Mississippi, and shall conclude, "against the peace and dignity of the same."

SEC. 19. The clerk of the supreme court shall be appointed by said court, for the term of four years and the clerk of the circuit court and the clerk of the chancery court shall be elected by the qualified voters of their several counties, and shall hold their office for the term of four years and the legislature shall provide by law what duties shall be performed by the clerks of the circuit and chancery courts, during vacation, subject to the approval of the court.

SEC. 20. The qualified electors of each county shall elect five persons, by districts, for the term of two years, who shall constitute a board of supervisors for each county, a majority of whom may transact business, which body shall have full jurisdiction over roads, ferries and bridges, and shall order all county elections, to fill vacancies

that may arise in the offices of their respective counties, and perform such other duties as shall be provided by law. The clerk of the chancery court of each county shall be the clerk of such board of supervisors.

SEC. 21. No person shall be eligible as a member of said board who shall not have resided one year in the county; but this qualification shall not extend to new counties as may hereafter be established, until one year after their organization, and all vacancies that may occur in said board shall be supplied by election as aforesaid, to the unexpired term.

SEC. 22. Judges of all the courts of this State, and all other civil officers, shall, by virtue of their office, be conservators of the peace, and shall be, by law, vested with ample powers in that respect.

SEC. 23. A competent number of justices of the peace and constables shall be chosen in each county, by the qualified electors thereof, by districts, who shall hold their office for the term of two years. The jurisdiction of justices of the peace shall be limited to causes in which the principal of the amount in controversy shall not exceed the sum of [\$150] one hundred and fifty dollars. In all causes tried by a justice of the peace, the right of appeal shall be secured, under such rules and regulations as shall be prescribed by law.

SEC. 24. The legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever they shall deem it expedient.

SEC. 25. There shall be an attorney-general elected by the qualified electors of the State, and a competent number of district attorneys shall be elected by the qualified electors of the respective districts, whose term of service shall be four years, and whose duties and compensation shall be prescribed by law.

SEC. 26. Clerks, sheriffs, and other county officers, for wilful neglect of duty or misdemeanor in office, shall be liable to presentment or indictment by grand jury, and trial by petit jury, and upon conviction shall be removed from office.

## ARTICLE VII

### FRANCHISE

SECTION 1. All elections by the people shall be by ballot.

SEC. 2. All male inhabitants of this State, except idiots and insane persons, and Indians not taxed, citizens of the United States or naturalized, twenty-one years old and upwards, who have resided in this State six months and in the county one month next preceding the day of election, at which said inhabitant offers to vote, and who are duly registered according to the requirements of section three of this article, and who are not disqualified by reason of any crime, are declared to be qualified electors.

SEC. 3. The legislature shall provide, by law, for the registration of all persons entitled to vote at any election, and all persons entitled to register shall take and subscribe to the following oath or affirmation: "I, \_\_\_\_\_, do solemnly swear, [or affirm,] in the presence of Almighty God, that I am twenty-one years old; that I have resided in this State six months, and in \_\_\_\_\_ county one month; that I will faithfully support and obey the Constitution and laws of the

United States and of the State of Mississippi, and will bear true faith and allegiance to the same: So help me God.<sup>a</sup>

SEC. 4. No person shall be eligible to any office of profit or trust, or to any office in the militia of this State, who is not a qualified elector.

SEC. 5. [Expunged.]<sup>b</sup>

SEC. 6. In time of war, insurrection, or rebellion the right to vote at such place and in such manner as shall be prescribed by law shall be enjoyed by all persons otherwise entitled thereto, who may be in the actual military or naval service of the United States or this State, provided said votes be made to apply in the county or precinct wherein they reside.

## ARTICLE VIII

### SCHOOL-FUND, EDUCATION, AND SCIENCE

SECTION 1. As the stability of a republican form of government depends mainly upon the intelligence and virtue of the people, it shall be the duty of the legislature to encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement, by establishing a uniform system of free public schools, by taxation or otherwise, for all children between the ages of five and twenty-one years, and shall, as soon as practicable, establish schools of higher grade.

SEC. 2. There shall be a superintendent of public education elected at the same time and in the same manner as the governor, who shall have the qualifications of the secretary of state, and hold his office for four years, and until his successor shall be elected and qualified, whose duties shall be the general supervision of the common schools and the educational interests of the State, and who shall perform such other duties pertaining to his office and receive such compensation as shall be prescribed by law; he shall report to the legislature, for its adoption, within twenty days after the opening of its first session under this constitution, a uniform system of free public schools.

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<sup>a</sup> The original constitution further said: "That I am not disfranchised in any of the provisions of the acts known as the reconstruction acts of the 39th and 40th Congress, and that I admit the political and civil equality of all men: So help me God: *Provided*, That if Congress shall, at any time, remove the disabilities of any person disfranchised in the said reconstruction acts of the said 39th and 40th Congress, (and the legislature of this State shall concur therein,) then so much of this oath, and so much only, as refers to the said reconstruction acts, shall not be required of such person, so pardoned, to entitle him to be registered."

<sup>b</sup> This was in the original constitution: "No person shall be eligible to any office of profit or trust, civil or military, in the State, who, as a member of the legislature, voted for the call of the convention that passed the ordinance of secession, or who, as a delegate to any convention, voted for or signed any ordinance of secession, or who gave voluntary aid, countenance, counsel, or encouragement to persons engaged in armed hostility to the United States, or who accepted or attempted to exercise the functions of any office, civil or military, under any authority or pretended government, authority, power, or constitution, within the United States, hostile or inimical thereto, except all persons who aided reconstruction by voting for this convention, or who have continuously advocated the assembling of this convention, and shall continuously and in good faith advocate the acts of the same; but the legislature may remove such disability: *Provided*, That nothing in this section, except voting for or signing the ordinance of secession, shall be so construed as to exclude from office the private soldier of the late so-called Confederate States army."

SEC. 3. There shall be a board of education, consisting of the secretary of state, the attorney-general, and the superintendent of public education, for the management and investment of the school-funds, under the general direction of the legislature, and to perform such other duties as may be prescribed by law. The superintendent and one other of said board shall constitute a quorum.

SEC. 4. There shall be a superintendent of public education in each county, who shall be appointed by the board of education, by and with the advice and consent of the senate, whose term of office shall be two years, and whose compensation and duties shall be prescribed by law: *Provided*, That the legislature shall have power to make said office of county-school superintendent of the several counties elective, as other county officers are.

SEC. 5. A public school or schools shall be maintained in each school-district at least four months in each year. Any school-district neglecting to maintain such school or schools shall be deprived for that year of its proportion of the income of the free-school fund, and all funds arising from taxes for the support of schools.

SEC. 6. There shall be established a common-school fund, which shall consist of the proceeds of the lands now belonging to the State, heretofore granted by the United States, and of the lands known as "swamp-lands," except the swamp-lands lying and situated on Pearl River, in the counties of Hancock, Marion, Lawrence, Simpson, and Copiah, and of all lands now or hereafter vested in the State by escheat or purchase or forfeiture for taxes, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys received for licenses granted under the general laws of the State for the sale of intoxicating liquor or keeping of dram-shops, all moneys paid as an equivalent for persons exempt from military duty, and the funds arising from the consolidation of the congressional-township fund and the lands belonging thereto, together with all moneys donated to the State for school purposes, which funds shall be securely invested in United States bonds and remain a perpetual fund, which may be increased but not diminished, the interest of which shall be inviolably appropriated for the support of free schools.

SEC. 7. The legislature may levy a poll-tax not to exceed two dollars a head in aid of the school-fund, and for no other purpose.

SEC. 8. The legislature shall, as soon as practicable, provide for the establishment of an agricultural college or colleges; and shall appropriate the two hundred and ten thousand acres of land donated to the State for the support of such a college, by the act of Congress passed July 2, A. D. 1865, or the money or scrip, as the case may be, arising from the sale of said lands or any lands which may hereafter be granted or appropriated for such purpose.

SEC. 9. No religious sect or sects shall ever control any part of the school or university funds of this State.

SEC. 10. The legislature shall from time to time, as may be necessary, provide for the levy and collection of such other taxes as may be required to properly support the system of free schools herein adopted; and all school-funds shall be divided *pro rata* among the children of school ages.

## ARTICLE IX

## MILITIA

SECTION 1. All able-bodied male citizens of the State, between the ages of eighteen and forty-five years, shall be liable to military duty in the militia of this State, in such manner as the legislature shall provide, not incompatible with this constitution and the Constitution and laws of the United States.

SEC. 2. The legislature shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same when called into active service.

SEC. 3. It shall be the duty of the first legislature to make such laws as shall be necessary to immediately create an effective militia in this State.

SEC. 4. All officers of militia, except non-commissioned officers, shall be appointed by the governor, by and with the consent of the senate, and shall be chosen for their military knowledge, their experience in arms, and their fidelity and loyalty; and no commissioned officer shall be removed from office except by the senate, on recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of a court-martial, pursuant to law, or at his own request.

SEC. 5. The governor shall be commander-in-chief of the militia, except when it is called into the service of the United States; and shall have power to call forth the militia to execute the laws, repel invasion, and to suppress riots and insurrections.

SEC. 6. The governor shall nominate, and, by and with the consent of the senate, commission one major-general for the State, who shall be a citizen thereof; and also one brigadier-general for each congressional district, who shall be a resident of the district for which he shall be appointed; and each district shall constitute a militia division.

SEC. 7. The adjutant-general, and other staff-officers to the commander-in-chief, shall be appointed by the governor, and their appointment shall expire with the governor's term of office.

SEC. 8. The militia shall be exempt from arrest during their attendance on musters, and in going to and returning from the same, except in case of treason, felony, or breach of the peace.

## ARTICLE X

## INTERNAL IMPROVEMENTS

The legislature, at its first regular session after the adoption of this constitution, shall provide for the organization of a board of public works, prescribe its duties, fix the compensation of its members, and all officers employed upon public works in this State.



## ARTICLE XI

## APPORTIONMENT

SECTION 1. Until the first enumeration and a new apportionment shall be made as provided and directed in this constitution, the apportionment of senators and representatives among the several counties and districts in this State shall be as follows:

1st. The county of Warren, five representatives.

2d. The counties of Hinds and Lowndes, each four representatives.

3d. The counties of Adams, Carroll, De Soto, Holmes, Madison, Marshall, Monroe, Noxubee, Washington, and Yazoo, each three representatives.

4th. The counties of Attala, Chickasaw, Choctaw, Claiborne, Copiah, Jefferson, La Fayette, Lauderdale, Pontotoc, Oktibbeha, Panola, Tippah, Wilkinson, Yalobusha, Tishomingo, and Rankin, each two representatives.

5th. The counties of Amite, Bolivar, Calhoun, Clarke, Franklin, Issaquena, Itawamba, Jasper, Kemper, Lawrence, Leake, Lee, Pike, Sunflower, Scott, Tallahatchee, Winston, Simpson, Coahoma, Tunica, Newton, Neshoba, Covington, Smith, Wayne, Davis, Greene, Jackson, Hancock, Marion, Harrison, and Perry, each one representative.

SEC. 2. 1st. The counties of Hancock, Harrison, Jackson, Marion, Greene, and Perry, shall form the first district, and elect one senator.

2d. The counties of Wilkinson and Amite, the second district, and one senator.

3d. The counties of Pike, Lawrence, and Covington, the third district, and one senator.

4th. The county of Adams, the fourth district, and one senator.

5th. The counties of Franklin and Jefferson, the fifth district, and one senator.

6th. The counties of Claiborne and Copiah, the sixth district, and one senator.

7th. The counties of Warren and Issaquena, the seventh district, and two senators.

8th. The counties of Hinds, Rankin, and Simpson, the eighth district, and two senators.

9th. The counties of Davis, Jones, Jasper, Clarke, and Wayne, the ninth district, and one senator.

10th. The counties of Lauderdale and Kemper, the tenth district, and one senator.

11th. The counties of Newton, Smith, and Scott, the eleventh district, and one senator.

12th. The county of Madison, the twelfth district, and one senator.

13th. The county of Yazoo, the thirteenth district, and one senator.

14th. The counties of Washington and Sunflower, the fourteenth district, and one senator.

15th. The county of Holmes, the fifteenth district, and one senator.

16th. The counties of Attala, Leake, and Neshoba, the sixteenth district, and one senator.

17th. The county of Noxubee, the seventeenth district, and one senator.

18th. The counties of Lowndes and Oktibbeha, the eighteenth district, and two senators.

19th. The counties of Choctaw and Winston, the nineteenth district, and one senator.

20th. The county of Carroll, the twentieth district, and one senator.

21st. The counties of Calhoun and Yalobusha, the twenty-first district, and one senator.

22d. The counties of Chickasaw and Monroe, the twenty-second district, and two senators.

23d. The counties of Bolivar, Coahoma, and Tunica, the twenty-third district, and one senator.

24th. The counties of Panola and Tallahatchee, the twenty-fourth district, and one senator.

25th. The county of De Soto, the twenty-fifth district, and one senator.

26th. The county of Marshall, the twenty-sixth district, and one senator.

27th. The counties of La Fayette and Pontotoc, the twenty-seventh district, and one senator.

28th. The counties of Tishomingo and Itawamba, the twenty-eighth district, and one senator.

29th. The counties of Tippah and Lee, the twenty-ninth district, and one senator.

## ARTICLE XII

### GENERAL PROVISIONS

SECTION 1. The political year of the State of Mississippi shall commence on the first Monday of January in each year, and the general election shall be holden on the first Tuesday succeeding the first Monday in November, biennially.

SEC. 2. The legislature shall pass laws to exclude from office and from suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors; and every person shall be disqualified from holding any office, or place of honor, profit, or trust under the authority of this State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

SEC. 3. No person who denies the existence of a Supreme Being shall hold any office in this State.

SEC. 4. The legislature shall provide by law for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offence was committed, whenever owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impanelled in the county in which the offence was committed.

SEC. 5. The credit of the State shall not be pledged or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 6. The term of office of all county, township, and precinct officers shall expire within thirty days after this constitution shall have been ratified, and the governor shall, by and with the advice and consent of the senate, thereafter appoint such officers, whose term of office shall continue until the legislature shall provide by law for an election of said officers: *Provided*, The present incumbents of all

county, township, district, and beat officers shall hold their respective offices until their successors are legally appointed or elected and duly qualified.

SEC. 7. In all cases not otherwise provided for in this constitution, the legislature may determine the mode of filling all vacancies in all offices, and shall define their respective powers, and provide suitable compensation for all officers.

SEC. 8. The legislature, at its first session, shall provide by law for the sale of all delinquent tax lands. The courts shall apply the same liberal principles in favor of such titles as in sale by execution.

SEC. 9. No laws of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

SEC. 10. It shall be the duty of the legislature to regulate, by law, the cases in which deductions shall be made from salaries of public officers for neglect of duty in their official capacity, and the amount of said deduction.

SEC. 11. The legislature, at its first session under this constitution, shall have authority to designate, by law, such loyal paper or papers, in each circuit-court district, as shall publish all legal advertising, and such official printing as shall be required by law in such circuit-court district, and fix the compensation therefor.

SEC. 12. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation, any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the legislature shall prohibit, by law, individuals or corporations from issuing bills, checks, tickets, promissory notes, or other papers, as money. But nothing herein contained shall be construed as preventing corporations or associations from forming for such purposes under the acts of Congress for a national system of banking.

SEC. 13. The property of all corporations for pecuniary profits shall be subject to taxation, the same as that of individuals.

SEC. 14. The legislature shall not authorize any county, city, or town to become a stockholder in, or to lend its credit to, any company, association, or corporation, unless two-thirds of the qualified voters of such county, city or town, at a special election, or regular election, to be held therein, shall assent thereto.

SEC. 15. The legislature shall never authorize any lottery, nor shall the sale of lottery tickets be allowed, nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

SEC. 16. No county shall be denied the right to raise, by special tax, money sufficient to pay for the building and repairing of court-houses, jails, bridges, and other necessary conveniences for the people of the county; and money thus collected shall never be appropriated for any other purpose: *Provided*, The tax thus levied shall be a certain per cent. on all tax levied by the State.

SEC. 17. Liabilities of banks, associations, and other corporations shall be secured by legislative enactments; but in all cases no stockholder shall be individually liable over and above the stock by him or her owned, unless so specified in the articles of association or act of incorporation.

SEC. 18. All lands sold in pursuance of decree of courts or execution shall be divided into tracts not to exceed one hundred and sixty acres.

SEC. 19. Returns of all elections by the people shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 20. Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law.

SEC. 21. The State of Mississippi shall never assume nor pay any debt or obligation contracted in aid of the rebellion, nor shall this State ever, in any manner, claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever since the 9th day of January, 1861.

SEC. 22. All persons who have not been married, but are now living together, cohabiting as husband and wife, shall be taken and held, for all purposes in law, as married, and their children, whether born before or after the ratification of this constitution, shall be legitimate, and the legislature may, by law, punish adultery and concubinage.

SEC. 23. There shall be a commissioner of immigration and agriculture, who shall be elected by the legislature on joint ballot, who shall hold his office for the term of four years unless sooner removed by law.

SEC. 24. The next legislature shall have power to repeal statutes of limitation, pass relief, stay, injunction, insolvent, and homestead laws, and to pass any and every act deemed necessary for the relief of debtors, subject only to the restrictions imposed by the Constitution of the United States.

SEC. 25. Representatives in Congress to fill the existing vacancies shall be elected at the same time this constitution is submitted to the electors of the State for ratification, and for the full term next succeeding their election, and thereafter elections for Representatives in Congress shall be held biennially. The first election shall be held on the first Tuesday after the first Monday in November preceding the expiration of said full term.

SEC. 26. Members of the legislature, and all other officers elected or appointed to any office in this State, shall, before entering upon the discharge of the duties thereof, take and subscribe the following oath of office:

#### OATH OF OFFICE

"I, \_\_\_\_\_, do solemnly swear [or affirm] that I will faithfully support and true allegiance bear the Constitution of the United States, and the State of Mississippi, and obey the laws thereof; that I am not disqualified from holding office by the Constitution of the United States or the State of Mississippi; that I have never, as a member of any convention, voted for or signed any ordinance of secession; that I have never, as a member of any State legislature, voted for the call of any convention that passed any such ordinance; that I will faithfully discharge the duties of the office upon which I am about to enter, So help me God."

SEC. 27. It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind and also for the treatment and care of the insane.

SEC. 28. The legislature shall provide houses of refuge for the correction and reformation of juvenile offenders.

SEC. 29. The county boards shall have power to provide farms as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

## ARTICLE XIII

### ORDINANCE AND SCHEDULE

#### MODE OF REVISING THE CONSTITUTION

Whenever two-thirds of each branch of the legislature shall deem any change, alteration, or amendment necessary to this constitution, such proposed change, alteration, or amendment shall be read and passed by a two-thirds vote of each house, respectively, on each day for three several days; public notice shall then be given by the secretary of state at least three months preceding the next general election, at which the qualified electors shall vote directly for or against such change, alteration, or amendment; and if more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately; and if it shall appear that a majority of the qualified electors voting for members of the legislature shall have voted for the proposed change, alteration, or amendment, then it shall be inserted by the next succeeding legislature as a part of this constitution, and not otherwise: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eighty-five shall in any manner affect the eighteenth section of the bill of rights.

#### SCHEDULE

SECTION 1. The ordinance of secession of the State of Mississippi, passed January 9, 1861, is hereby declared to be null and void. The present and all previous constitutions of the State of Mississippi are hereby declared to be repealed and annulled by this constitution.

SEC. 2. All laws now in force in this State, not enacted in furtherance of secession and rebellion, and not repugnant to this constitution, shall continue in operation until they shall expire by their own limitation, or be altered or repealed by the legislature, except the hereinafter-mentioned laws, to wit:

“An act to change the name of the county of Jones, and for other purposes,” approved December 1, A. D. 1865.

“An act to establish a ferry across the Mississippi River at Vicksburgh,” approved November 29, A. D. 1865.

“An act to provide for the removal and location of the seat of justice of Scott County,” approved November 8, A. D. 1865.

“An act supplemental to an act entitled ‘An act to provide for the removal and location of the seat of justice of Scott County,’ approved November 8, 1865,” approved December 1, A. D. 1865.

SEC. 3. The legislature shall provide for the removal of causes now pending in the courts of this State to courts created by or under this constitution.



## ORDINANCE

SECS. 4 to 13 inclusive. [Expunged.]<sup>a</sup>

SEC. 14. The members of the committee of five appointed by this convention, and the clerk thereof, shall receive the same compensation as the members of the convention.

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<sup>a</sup> These sections of the original constitution were:

SEC. 4. Immediately upon the adjournment of this convention this constitution shall be submitted for ratification to the registered voters of the State, in conformity with the acts of Congress, passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the acts supplementary thereto.

SEC. 5. The election for the ratification of this constitution shall commence on the 22d day of June, A. D. 1868, and be held at such places, and shall continue such time, as the commanding general of the fourth military district may direct, and the polls shall be kept open from eight o'clock a. m. until seven o'clock p. m. each day. At said election all those in favor of ratifying the constitution shall have written or printed on their ballots the words, "For constitution;" and those opposed to the ratification of the same shall have written or printed on their ballots the words, "Against constitution;" but no person shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution.

SEC. 6. In order to establish a civil government as required by the act of Congress, approved March 2, 1867, and the acts supplementary thereto, an election shall be held at the same time and place at which the constitution is submitted for ratification, for all State officers, including members of the legislature and for Representatives in Congress, at which election the electors who are qualified under the reconstruction acts of Congress shall vote, and none other.

SEC. 7. The committee of five appointed under the authority of this convention shall appoint three commissioners of election for each county, whose duty it shall be to attend the election for the ratification or rejection of the constitution, who shall also, at the same time and place, attend the election for all officers and Representatives herein ordered, and be present at the counting of the votes, and forward the result of the same to the chairman of said committee within three days thereafter.

SEC. 8. The legislature elected under this constitution shall hold its first session in the capitol, in the city of Jackson, on the second Monday after the official promulgation of the ratification of this constitution, and shall proceed immediately upon its organization to vote upon the adoption of the fourteenth amendment to the Constitution of the United States, proposed by Congress, and passed June 13, 1866. Said legislature shall not have power to enact any laws relative to the per diem of members, nor on any other subject, after organization, until said constitutional amendment shall have been adopted.

SEC. 9. The first term of all civil officers elected at the same time this constitution is submitted for ratification or rejection, shall commence on the second Monday after their election shall have been officially promulgated, and shall continue to hold from said time until the expiration of the first full term succeeding the election.

SEC. 10. The commissioners of election herein provided for shall receive the same compensation per day, while in attendance upon elections, and allowances for transportation (when actual disbursements have been made) as registrars, and shall be paid out of any funds in the State treasury to the credit of the convention fund, upon the certificate of the chairman of said committee of five.

SEC. 11. The committee of five appointed by this convention is hereby authorized and empowered to adjust all outstanding accounts against the same, and certify to their correctness, and the auditor of public accounts shall issue his warrant in payment thereof.

SEC. 12. When this convention adjourns it shall be subject to the call of the committee of five appointed by this convention: *Provided*, That should the constitution be ratified, this convention shall thereafter be deemed adjourned *sine die*, but in case the constitution should not be ratified, then the convention may be reconvened by said committee.

SEC. 13. Said committee shall have authority to employ a clerk and to enforce the collection of the taxes levied by the several ordinances of this convention, and to perform any and all duties appertaining to the same.

SEC. 15. If any candidate receiving the highest number of votes cast cannot take the oath of office prescribed in this constitution, then, and in that case, the candidate receiving the next highest vote shall be entitled to enter upon and perform the duties of the office upon taking and subscribing to said oath.

B. B. EGGLESTON, *President*.

THAD. P. SEARS, *Secretary*.

### AMENDMENTS TO THE CONSTITUTION OF 1868

#### (Amendment I)

Add to section five, article twelve, the following: Nor shall the state assume, redeem, secure, or pay any indebtedness or pretended indebtedness claimed to be due by the State of Mississippi, to any person, association or corporation whatsoever, claiming the same as owners, holders, or assignees of any bond or bonds, now generally known as Union Bank bonds, or Planters' Bank bonds.

#### (Amendment II)

Section six, article eight, amended as follows: All proceeds of lands now, or hereafter vested in this state by escheat or purchase, or forfeiture for taxes, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys received for licenses granted under the laws of the state, for the sale of intoxicating liquors or keeping of dram shops, shall be collected in legal currency of the United States, and be paid into the treasury, to be distributed *pro rata* among the educable children of the state, in the manner provided for by law.

#### (Amendment III)

As a substitute for the seventeenth section of the sixth article of the constitution, read the following, to-wit: The legislature shall divide the state into a convenient number of chancery districts. Chancellors shall be appointed in the same manner as the judges of the circuit courts. Their qualifications shall be regulated by law, and they shall hold their office for the term of four years. They shall hold a court in each county, at least twice in each year, and shall receive such compensation as may be provided by law.

[The three foregoing amendments were inserted by resolution of the legislature, January 18, 1876.]

#### (Amendment IV)

As a substitute for section (6) six, of article (4) four of the constitution:

The legislature shall meet at the seat of government on the first Tuesday after the first Monday in January, in the year 1878, and biennially thereafter, unless sooner convened by the governor. The time and place of meeting may be altered by law.

[Inserted by resolution of the legislature, January 22, 1878.]

## CONSTITUTION OF THE STATE OF MISSISSIPPI—1890 \* <sup>a</sup>

We, the people of Mississippi, in Convention assembled, grateful to Almighty God, and invoking His blessing on our work, do ordain and establish this Constitution.

### ARTICLE 1

#### DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of Mississippi shall be divided into three distinct departments, and each of them confided to a separate magistracy, to-wit: those which are legislative to one; those which are judicial to another; and those which are executive to another.

SEC. 2. No person or collection of persons, being one, or belonging to one, of these departments, shall exercise any power properly belonging to either of the others. The acceptance of an office in either of said departments shall, of itself, and at once, vacate any and all offices held by the person so accepting in either of the other departments.

### ARTICLE 2

#### BOUNDARIES OF THE STATE

SEC. 3. The limits and boundaries of the State of Mississippi are as follows, to-wit: Beginning on the Mississippi river (meaning thereby the center of said river or thread of the stream) where the southern boundary line of the State of Tennessee strikes the same, as run by B. A. Ludlow, D. W. Connelly and W. Petrie, commissioners appointed for that purpose on the part of the State of Mississippi in A. D., 1837, and J. D. Graham and Austin Miller, commissioners appointed for that purpose on the part of Tennessee; thence east along the said boundary line of the State of Tennessee to a point on the west bank of the Tennessee river, six four-pole chains south of and above the mouth of Yellow Creek; thence up the said river to the mouth of Bear Creek; thence by a direct line to what was formerly the northwest corner of the county of Washington, Alabama; thence on a direct line to a point ten miles east of the Pascagoula river on the Gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl river with Lake Borgne; thence up said Pearl river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the middle or thread of the stream of the Mississippi river;

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\* Verified from "Constitution of the State of Mississippi, adopted November 1, 1890. Printed by authority. Jackson, Miss.: E. L. Martin, Convention Printer. 1891."

See Journal of the Proceedings of the Constitutional Convention, of the State of Mississippi. Begun at the city of Jackson on August 12, 1890, and concluded November 1, 1890. Printed by authority. Jackson, Miss.: E. L. Martin, Printer to the Convention. 1890. pp. 638-685.

For Debates in this Convention see "Daily Clarion Ledger," Jackson, Aug. 1 to Oct. 31, 1890.

<sup>a</sup> Adopted November 1, A. D. 1890.

thence up the middle of the Mississippi river, or thread of the stream, to the place of beginning, including all islands lying east of the thread of the stream of said river, and also including any lands which were at any time heretofore a part of this State.

SEC. 4. The legislature shall have power to consent to the acquisition of additional territory by the State and to make the same a part thereof; and the legislature may settle disputed boundaries between this State and its coterminous States whenever such disputes arise.

### ARTICLE 3

#### BILL OF RIGHTS

SEC. 5. All political power is vested in, and derived from, the people; all government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 6. The people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness; provided, such change be not repugnant to the constitution of the United States.

SEC. 7. The right to withdraw from the Federal Union on account of any real or supposed grievance, shall never be assumed by this State, nor shall any law be passed in derogation of the paramount allegiance of the citizens of this State to the government of the United States.

SEC. 8. All persons resident in this State, citizens of the United States, are hereby declared citizens of the State of Mississippi.

SEC. 9. The military shall be in strict subordination to the civil power.

SEC. 10. Treason against the State shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 11. The right of the people peaceably to assemble and petition the government on any subject shall never be impaired.

SEC. 12. The right of every citizen to keep and bear arms in defense of his home, person or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons.

SEC. 13. The freedom of speech and of the press shall be held sacred, and in all prosecutions for libel the truth may be given in evidence, and the jury shall determine the law and the facts under the direction of the court; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 14. No person shall be deprived of life, liberty or property, except by due process of law.

SEC. 15. There shall be neither slavery nor involuntary servitude in this State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

SEC. 16. Ex post facto laws, or laws impairing the obligation of contracts, shall not be passed.

SEC. 17. Private property shall not be taken or damaged for public use except on due compensation being first made to the owner or owners thereof, in a manner to be prescribed by law; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be public shall be a judicial question, and as such determined without regard to legislative assertion that the use is public.

SEC. 18. No religious test as a qualification for office shall be required; and no preference shall be given by law to any religious sect, or mode of worship; but the free enjoyment of all religious sentiments and the different modes of worship shall be held sacred. The rights hereby secured shall not be construed to justify acts of licentiousness injurious to morals or dangerous to the peace and safety of the State, or to exclude the Holy Bible from use in any public school of this State.

SEC. 19. Human life shall not be imperiled by the practice of dueling; and any citizen of this State who shall hereafter fight a duel, or assist in the same as second, or send, accept, or knowingly carry a challenge therefor, whether such act be done in the State, or out of it, or who shall go out of the State to fight a duel, or to assist in the same as second, or to send, accept or carry a challenge, shall be disqualified from holding any office under this constitution and shall be disfranchised.

SEC. 20. No person shall be elected or appointed to office in this State for life or during good behavior, but the term of all offices shall be for some specified period.

SEC. 21. The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it, nor ever without the authority of the legislature.

SEC. 22. No person's life or liberty shall be twice placed in jeopardy for the same offense; but there must be an actual acquittal or conviction on the merits to bar another prosecution.

SEC. 23. The people shall be secure in their persons, houses and possessions, from unreasonable seizure or search; and no warrant shall be issued without probable cause, supported by oath or affirmation, specially designating the place to be searched and the person or thing to be seized.

SEC. 24. All courts shall be open; and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial or delay.

SEC. 25. No person shall be debarred from prosecuting or defending any civil cause, for or against him or herself before any tribunal in this State, by him or herself, or counsel, or both.

SEC. 26. In all criminal prosecutions the accused shall have a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictment or information, a speedy and public



trial by an impartial jury of the county where the offense was committed; and he shall not be compelled to give evidence against himself; but in prosecutions for rape, adultery, fornication, sodomy or the crime against nature, the court may in its discretion exclude from the court room all persons except such as are necessary in the conduct of the trial.

SEC. 27. No person shall for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, or by leave of the court for misdemeanor in office; but the legislature in cases not punishable by death or by imprisonment in the penitentiary, may dispense with the inquest of the grand jury, and may authorize prosecutions before justices of the peace, or such other inferior court or courts as may be established, and the proceedings in such cases shall be regulated by law.

SEC. 28. Cruel or unusual punishment shall not be inflicted, nor excessive fines be imposed.

SEC. 29. Excessive bail shall not be required; and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or presumption great.

SEC. 30. There shall be no imprisonment for debt.

SEC. 31. The right of trial by jury shall remain inviolate.

SEC. 32. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by, and inherent in, the people.

#### ARTICLE 4

##### LEGISLATIVE DEPARTMENT

SEC. 33. The legislative power of this State shall be vested in the legislature, which shall consist of a senate, and a house of representatives.

SEC. 34. The house of representatives shall consist of members chosen every four years by the qualified electors of the several counties and representative districts.

SEC. 35. The senate shall consist of members to be chosen every four years by the qualified electors of the several districts.

SEC. 36. The legislature shall meet at the seat of government in regular session, on the first Tuesday after the first Monday in January of the year A. D., 1892, and every four years thereafter; and in special session on the first Tuesday after the first Monday in January of the year A. D., 1894, and every four years thereafter, unless sooner convened by the governor. The special sessions shall not continue longer than thirty days unless the governor, deeming the public interest to require it, shall extend the sitting by proclamation in writing to be sent to and entered upon the journals of each house, for a specific number of days, and then it may continue in session to the expiration of that time. At such special sessions the members shall receive not more compensation or salary than ten cents mileage, and a per diem of not exceeding five dollars; and none but appropriation and revenue bills shall be considered except such other matters as may be acted upon at an extraordinary session called by the governor.

SEC. 37. Elections for members of the legislature shall be held in the several counties and districts as provided by law.

SEC. 38. Each house shall elect its own officers, and shall judge of the qualifications, return and election of its own members.

SEC. 39. The senate shall choose a president pro tempore to act in the absence or disability of its presiding officer.

#### QUALIFICATIONS AND PRIVILEGES OF LEGISLATORS

SEC. 40. Members of the legislature before entering upon the discharge of their duties shall take the following oath: "I, ———, do solemnly swear (or affirm) that I will faithfully support the constitution of the United States and of the State of Mississippi; that I am not disqualified from holding office by the constitution of this State; that I will faithfully discharge my duties as a legislator; that I will, as soon as practicable hereafter, carefully read (or have read to me) the constitution of this State, and will endeavor to note, and as a legislator, to execute all the requirements thereof imposed on the legislature; and I will not vote for any measure or person because of a promise of any other member of this legislature to vote for any measure or person, or as a means of influencing him or them to do so. So help me God."

SEC. 41. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, and who shall not be a qualified elector of the State, and who shall not have been a resident citizen of the State four years, and of the county two years, immediately preceding his election. The seat of a member of the house of representatives shall be vacated on his removal from the county or flotorial district from which he was elected.

SEC. 42. No person shall be a senator who shall not have attained the age of twenty-five years, who shall not have been a qualified elector of the State four years, and who shall not be an actual resident of the district or territory he may be chosen to represent, for two years before his election. The seat of a senator shall be vacated upon his removal from the district from which he was elected..

SEC. 43. No person liable as principal for public moneys unaccounted for shall be eligible to a seat in either house of the legislature, or to any office of profit or trust, until he shall have accounted for and paid over all sums for which he may have been liable.

SEC. 44. No person shall be eligible to a seat in either house of the legislature, or to any office of profit or trust, who shall have been convicted of bribery, perjury, or other infamous crime; and any person who shall have been convicted of giving, or offering, directly, or indirectly, any bribe to procure his election or appointment; and any person who shall give, or offer any bribe to procure the election or appointment of any person to office, shall, on conviction thereof, be disqualified from holding any office of profit or trust under the laws of this State.

SEC. 45. No senator or representative during the term for which he was elected, shall be eligible to any office of profit, which shall have been created, or the emoluments of which have been increased, during the time such senator or representative was in office, except to such offices as may be filled by an election of the people.

SEC. 46. The members of the legislature shall severally receive from the State treasury, compensation for their services, to be prescribed by law, which may be increased or diminished, but no alteration of such compensation of members shall take effect during the session at which it is made.

SEC. 47. No member of the legislature shall take any fee or reward, or be counsel in any measure pending before either house of the legislature, under penalty of forfeiting his seat, upon proof thereof to the satisfaction of the house, of which he is a member.

SEC. 48. Senators and representatives shall, in all cases, except treason, felony, theft or breach of the peace, be privileged from arrest during the session of the legislature, and for fifteen days before the commencement and after the termination of each session.

#### TRIAL OF OFFICERS

SEC. 49. The house of representatives shall have the sole power of impeachment; but two-thirds of all the members present must concur therein. All impeachments shall be tried by the senate, and, when sitting for that purpose, the senators shall be sworn to do justice according to law and the evidence.

SEC. 50. The governor, and all other civil officers of this State, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office.

SEC. 51. Judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit in this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment according to law.

SEC. 52. When the governor shall be tried, the chief justice of the supreme court shall preside; and when the chief justice is disabled, disqualified, or refuses to act, the judge of the supreme court, next oldest in commission, shall preside; and no person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 53. For reasonable cause, which shall not be sufficient ground of impeachment, the governor shall, on the joint address of two-thirds of each branch of the legislature, remove from office the judges of the supreme and inferior courts; but the cause or causes of removal shall be spread on the journal, and the party charged be notified of the same and have an opportunity to be heard by himself or counsel, or both, before the vote is finally taken and decided.

#### RULES OF PROCEDURE

SEC. 54. A majority of each house shall constitute a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each shall provide.

SEC. 55. Each house may determine rules of its own proceedings, punish its members for disorderly behavior; and with the concurrence of two-thirds of the members present, expel a member; but no member, unless expelled for theft, bribery or corruption, shall be expelled a second time for the same offense. Both houses shall from time to time, publish journals of their proceedings, except such parts as may

in their opinion require secrecy; and the yeas and nays, on any question, shall be entered on the journal, at the request of one-tenth of the members present; and the yeas and nays shall be entered on the journal on the final passage of every bill.

SEC. 56. The style of the laws of the State shall be: "Be it enacted by the legislature of the State of Mississippi."

SEC. 57. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 58. The doors of each house, when in session, or in committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine and imprisonment, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence, or who shall in any way disturb its deliberations during the session; but such imprisonment shall not extend beyond the final adjournment of that session.

SEC. 59. Bills may originate in either house and be amended or rejected in the other; and every bill shall be read on three different days in each house unless two-thirds of the house where the same is pending shall dispense with the rules; and every bill shall be read in full immediately before the vote on its final passage; and every bill having passed both houses, shall be signed by the president of the senate and the speaker of the house of representatives, in open session; but before either shall sign any bill, he shall give notice thereof, suspend business in the house over which he presides, have the bill read by its title, and on demand of any member, have it read in full; and all such proceedings shall be entered on the journal.

SEC. 60. No bill shall be so amended in its passage through either house as to change its original purpose, and no law shall be passed except by bill; but orders, votes and resolutions of both houses, affecting the prerogatives and duties thereof, or relating to adjournment, to amendments to the constitution, to the investigation of public officers, and the like, shall not require the signature of the governor; and such resolutions, orders and votes, may empower legislative committees to administer oaths, to send for persons and papers, and generally make legislative investigations effective.

SEC. 61. No law shall be revived or amended by reference to its title only, but the section or sections as amended, or revived, shall be inserted at length.

SEC. 62. No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority thereof, taken by yeas and nays and the names of those voting for and against recorded upon the journals; and reports of committees of conference shall in like manner be adopted in each house.

SEC. 63. No appropriation bill shall be passed by the legislature which does not fix definitely the maximum sum thereby authorized to be drawn from the treasury.

SEC. 64. No bill passed after the adoption of this constitution to make appropriations of money out of the State treasury, shall continue in force more than six months after the meeting of the legislature at its next regular session; nor shall such bill be passed except

by the votes of a majority of all the members elected to each house of the legislature.

SEC. 65. All votes on the final passage of any measure shall be subject to reconsideration for at least one whole legislative day, and no motion to reconsider such vote shall be disposed of adversely on the day on which the original vote was taken, except on the last day of the session.

SEC. 66. No law granting a donation, or gratuity, in favor of any person or object shall be enacted, except by the concurrence of two-thirds of each branch of the legislature, nor by any vote for a sectarian purpose or use.

SEC. 67. No new bills shall be introduced into either house of the legislature during the last three days of the session.

SEC. 68. Appropriation and revenue bills shall, at regular sessions of the legislature, have precedence in both houses over all other business, and no such bills shall be passed during the last five days of the session.

SEC. 69. General appropriation bills shall contain only the appropriations to defray the ordinary expenses of the executive, legislative and judicial departments of the government, to pay interest on State bonds, and to support the common schools. All other appropriations shall be made by separate bills, each embracing but one subject. Legislation shall not be engrafted on appropriation bills, but the same may prescribe the conditions on which the money may be drawn, and for what purposes paid.

SEC. 70. No revenue bill nor any bill providing for assessments of property for taxation, shall become a law, except by a vote of at least three-fifths of the members of each house present, and voting.

SEC. 71. Every bill introduced into the legislature shall have a title, and the title ought to indicate clearly the subject matter, or matters, of the proposed legislation. Each committee to which a bill may be referred, shall express in writing its judgment of the sufficiency of the title of the bill, and this, too, whether the recommendation be that the bill do pass, or do not pass.

SEC. 72. Every bill which shall pass both houses shall be presented to the governor of the State. If he approve, he shall sign it, but if he does not approve, he shall return it, with his objection, to the house in which it originated, which shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and if approved by two-thirds of that house, it shall become a law; but in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for, and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, within five days, (Sunday excepted), after it has been presented to him, it shall become a law, in like manner as if he had signed it, unless the legislature, by adjournment, prevent its return; in which case it shall be a law unless sent back within three days after the beginning of the next session of the legislature. No bill shall be approved when the legislature is not in session.



SEC. 73. The governor may veto parts of any appropriation bill, and approve parts of the same, and the portions approved shall be law.

SEC. 74. No bill shall become a law until it shall have been referred to a committee of each house and returned therefrom with a recommendation in writing.

SEC. 75. No law of a general nature, unless therein otherwise provided, shall be enforced until sixty days after its passage.

SEC. 76. In all elections by the legislature the members shall vote *viva voce*, and the votes shall be entered on the journals.

SEC. 77. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature, and the persons thereupon chosen shall hold their seats for the unexpired term.

#### INJUNCTION

SEC. 78. It shall be the duty of the legislature to regulate by law the cases in which deductions shall be made from salaries of public officers, for neglect of official duty and the amount of said deduction.

SEC. 79. The legislature shall provide by law for the sale of all delinquent tax lands. The courts shall apply the same liberal principles in favor of such titles as in sale by execution. The right of redemption from all sales of real estate, for the non-payment of taxes, or special assessments, of any and every character whatsoever, shall exist, on conditions to be prescribed by law, in favor of owners and persons interested in such real estate, for a period of not less than two years.

SEC. 80. Provision shall be made by general laws to prevent the abuse by cities, towns and other municipal corporations of their powers of assessment, taxation, borrowing money and contracting debts.

SEC. 81. The legislature shall never authorize the permanent obstruction of any of the navigable waters of this State; but may provide for the removal of such obstructions as now exist, whenever the public welfare demands; this section shall not prevent the construction, under proper authority, of draw-bridges for railroads, or other roads, nor the construction of "booms and chutes" for logs in such manner as not to prevent the safe passage of vessels, or logs, under regulations to be provided by law.

SEC. 82. The legislature shall fix the amount of the penalty of all official bonds, and may, as far as practicable, provide that the whole or a part of the security required for the faithful discharge of official duty shall be made by some guarantee company or companies.

SEC. 83. The legislature shall enact laws to secure the safety of persons from fires in hotels, theatres and other public places of resort.

SEC. 84. The legislature shall enact laws to limit, restrict or prevent the acquiring and holding of land in this State by non-resident aliens, and may limit or restrict the acquiring or holding of lands by corporations.

SEC. 85. The legislature shall provide by general law for the working of public roads by contract or by county prisoners, or both. Such law may be put in operation only by a vote of the board of supervisors in those counties where it may be desirable.

SEC. 86. It shall be the duty of the legislature to provide by law for the treatment and care of the insane; and the legislature may provide for the care of the indigent sick in the hospitals in the State.

#### LOCAL LEGISLATION

SEC. 87. No special or local law shall be enacted for the benefit of individuals or corporations, in cases which are, or can be provided for by a general law, or where the relief sought can be given by any court of this State; nor shall the operation of any general law be suspended by the legislature for the benefit of any individual or private corporation or association, and in all cases where a general law can be made applicable, and would be advantageous, no special law shall be enacted.

SEC. 88. The legislature shall pass general laws, under which local and private interests shall be provided for and protected, and under which cities and towns may be chartered and their charters amended, and under which corporations may be created, organized, and their acts of incorporation altered; and all such laws shall be subject to repeal or amendment.

SEC. 89. There shall be appointed in each house of the legislature a standing committee on local and private legislation; the house committee to consist of seven representatives, and the senate committee, of five senators. No local or private bill shall be passed by either house until it shall have been referred to said committee thereof, and shall have been reported back with a recommendation in writing that it do pass, stating affirmatively the reasons therefor, and why the end to be accomplished should not be reached by a general law, or by a proceeding in court; or if the recommendation of the committee be that the bill do not pass, then it shall not pass the house to which it is so reported unless it be voted for by a majority of all the members elected thereto. If a bill is passed in conformity to the requirements hereof, other than such as are prohibited in the next section, the courts shall not, because of its local, special or private nature, refuse to enforce it.

SEC. 90. The legislature shall not pass local, private or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz:

- (a) Granting divorces.
- (b) Changing the names of persons, places or corporations.
- (c) Providing for changes of venue in civil and criminal cases.
- (d) Regulating the rate of interest on money.
- (e) Concerning the settlement or administration of any estate, or the sale or mortgage of any property, of any infant, or of a person of unsound mind, or of any deceased person.
- (f) The removal of the disability of infancy.
- (g) Granting to any person, corporation, or association, the right to have any ferry, bridge, road or fish-trap.
- (h) Exemption of property from taxation, or from levy or sale.
- (i) Providing for the adoption or legitimation of children.
- (j) Changing the law of descent and distribution.
- (k) Exempting any person from jury, road, or other civil duty (and no person shall be exempted therefrom by force of any local or private law).

(*l*) Laying out, opening, altering and working roads and highways.

(*m*) Vacating any road or highway, town plat, street, alley or public grounds.

(*n*) Selecting, drawing, summoning or empaneling grand or petit juries.

(*o*) Creating, increasing, or decreasing the fees, salary or emoluments of any public officer.

(*p*) Providing for the management or support of any private or common school, incorporating the same or granting such school any privileges.

(*q*) Relating to stock laws, water courses and fences.

(*r*) Conferring the power to exercise the right of eminent domain, or granting to any person, corporation, or association the right to lay down railroad tracks, or street car tracks, in any other manner than that prescribed by general law.

(*s*) Regulating the practice in courts of justice.

(*t*) Providing for the creation of districts for the election of justices of the peace and constables.

(*u*) Granting any lands under control of the State to any person or corporation.

#### PROHIBITIONS

SEC. 91. The legislature shall not enact any law for one or more counties, not applicable to all the counties in the State, increasing the uniform charge for the registration of deeds, or regulating costs and charges and fees of officers.

SEC. 92. The legislature shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death.

SEC. 93. The legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer.

SEC. 94. The legislature shall never create by law any distinction between the rights of men and women to acquire, own, enjoy, and dispose of property of all kinds, or their power to contract in reference thereto. Married women are hereby fully emancipated from all disability on account of coverture. But this shall not prevent the legislature from regulating contracts between husband and wife; nor shall the legislature be prevented from regulating the sale of homesteads.

SEC. 95. Lands belonging to, or under the control of the State, shall never be donated directly, or indirectly, to private corporations or individuals, or to railroad companies. Nor shall such land be sold to corporations or associations for a less price than that for which it is subject to sale to individuals. This, however, shall not prevent the legislature from granting a right of way, not exceeding one hundred feet in width, as a mere easement, to railroads across State land, and the legislature shall never dispose of the land covered by said right of way so long as such easement exists.

SEC. 96. The legislature shall never grant extra compensation, fee or allowance, to any public officer, agent, servant or contractor, after service rendered, or contract made, nor authorize payment, or part payment, of any claim under any contract, not authorized by law;

but appropriations may be made for expenditures in repelling invasion, preventing, or suppressing insurrections.

SEC. 97. The legislature shall have no power to revive any remedy which may have become barred by lapse of time, or by any statute of limitation of this State.

SEC. 98. No lottery shall ever be allowed, or be advertised by newspapers, or otherwise, or its tickets be sold in this State; and the legislature shall provide by law for the enforcement of this provision; nor shall any lottery heretofore authorized be permitted to be drawn or its tickets sold.

SEC. 99. The legislature shall not elect any other than its own officers, State librarian, and United States senators; but this section shall not prohibit the legislature from appointing presidential electors.

SEC. 100. No obligation or liability of any person, association, or corporation held or owned by this State, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the legislature, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury; nor shall such liability, or obligation be exchanged or transferred except upon payment of its face value; but this shall not be construed to prevent the legislature from providing by general law for the compromise of doubtful claims.

SEC. 101. The seat of government of the State shall be at the city of Jackson, and shall not be removed or relocated without the assent of a majority of the electors of the State.

#### MISCELLANEOUS

SEC. 102. All general elections for State and county officers shall commence and be holden every four years, on the first Tuesday after the first Monday in November, until altered by law; and the electors, in all cases except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance at elections and in going to and returning therefrom.

SEC. 103. In all cases not otherwise provided for in this constitution, the legislature may determine the mode of filling all vacancies, in all offices, and in cases of emergency provisional appointments may be made by the governor, to continue until the vacancy is regularly filled; and the legislature shall provide suitable compensation for all officers, and shall define their respective powers.

SEC. 104. Statutes of limitation in civil causes shall not run against the State, or any subdivision, or municipal corporation thereof.

SEC. 105. The legislature shall provide for the enumeration of the whole number of inhabitants, and the qualified electors of the State, once in every ten years; and the first enumeration shall be made during the two months beginning on the first Monday of June, 1895, and the legislature shall provide for the same by law.

SEC. 106. There shall be a State librarian, to be chosen by the legislature, on joint vote of the two houses, to serve for four years, whose duties and compensation shall be prescribed by law. Any woman, a resident of the State four years, and who has attained the age of twenty years, shall be eligible to said office.

SEC. 107. All stationery, printing, paper, and fuel, used by the legislature, and other departments of the government, shall be furnished, and the printing and binding of the laws, journals, department reports, and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislature, and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum and under such regulations as may be prescribed by law. No member of the legislature or officer of any department shall be in any way interested in such contract; and all such contracts shall be subject to the approval of the governor and State treasurer.

SEC. 108. Whenever the legislature shall take away the duties pertaining to any office, then the salary of the officer shall cease.

SEC. 109. No public officer or member of the legislature shall be interested directly or indirectly in any contract with the State, or any district, county, city or town thereof, authorized by any law passed, or order made by any board of which he may be or may have been a member, during the term for which he shall have been chosen, or within one year after the expiration of such term.

SEC. 110. The legislature may provide, by general law, for condemning rights of way for private roads, where necessary for ingress and egress by the party applying, on due compensation being first made to the owner of the property; but such rights of way shall not be provided for in incorporated cities and towns.

SEC. 111. All lands comprising a single tract sold in pursuance of decree of court, or execution, shall be first offered in subdivisions not exceeding one hundred and sixty acres, or one-quarter section, and then offered as an entirety, and the price bid for the latter shall control only when it shall exceed the aggregate of the bids for the same in subdivisions as aforesaid; but the chancery court, in cases before it, may decree otherwise if deemed advisable to do so.

SEC. 112. Taxation shall be uniform and equal throughout the State. Property shall be taxed in proportion to its value. The legislature may, however, impose a tax per capita upon such domestic animals as from their nature and habits are destructive of other property. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value. But the legislature may provide for a special mode of valuation and assessment for railroads, and railroad and other corporate property, or for particular species of property belonging to persons, corporations or associations not situated wholly in one county. But all such property shall be assessed at its true value, and no county shall be denied the right to levy county and special taxes upon such assessment as in other cases of property situated and assessed in the county.

SEC. 113. The auditor shall, within sixty days after the adjournment of the legislature, prepare and publish a full statement of all money expended at such session, specifying the items and amount of each item, and to whom, and for what paid; and he shall also publish the amounts of all appropriations.

SEC. 114. Returns of all elections by the people shall be made to the secretary of state in such manner as shall be provided by law.

SEC. 115. The fiscal year of the State of Mississippi shall commence on the first day of October, and end on the thirtieth day of September of each year; and the auditor of public accounts and the treasurer of



the State shall compile, and have published, a full and complete report, showing the transactions of their respective offices on or before the thirty-first day of December of each year for the preceding fiscal year.

## ARTICLE 5

### EXECUTIVE

SEC. 116. The chief executive power of the State shall be vested in a governor, who shall hold his office for four years, and who shall be ineligible as his immediate successor in office.

SEC. 117. The governor shall be at least thirty years of age, and shall have been a citizen of the United States twenty years, and shall have resided in this State five years next preceding the day of his election.

SEC. 118. The governor shall receive for his services such compensation as may be fixed by law, which shall neither be increased nor diminished during his term of office.

SEC. 119. The governor shall be commander-in-chief of the army and navy of the State, and of the militia, except when they shall be called into the service of the United States.

SEC. 120. The governor may require information, in writing, from the officers in the executive departments of the State on any subject relating to the duties of their respective offices.

SEC. 121. The governor shall have power to convene the legislature in extraordinary session whenever in his judgment the public interest requires it. Should the governor deem it necessary to convene the legislature, he shall do so by public proclamation, in which he shall state the subjects and matters to be considered by the legislature when so convened; and the legislature when so convened, as aforesaid, shall have no power to consider or act upon subjects or matters other than those designated in the proclamation of the governor, by which the session is called, except impeachments, and examination into the accounts of State officers. The legislature when so convened may also act on and consider such other matters as the governor may in writing submit to them while in session. The governor may convene the legislature at the seat of government, or at a different place, if that shall become dangerous from an enemy, or from disease; and in case of a disagreement between the two houses, with respect to time of adjournment, adjourn them to such time as he shall think proper, not beyond the day of the next stated meeting of the legislature.

SEC. 122. The governor shall, from time to time, give the legislature information of the state of the government, and recommend for consideration such measures as may be deemed necessary and expedient.

SEC. 123. The governor shall see that the laws are faithfully executed.

SEC. 124. In all criminal and penal cases, excepting those of treason and impeachment, the governor shall have power to grant reprieves and pardons, to remit fines, and in cases of forfeiture, to stay the collection, until the end of the next session of the legislature, and by and with the consent of the senate to remit forfeitures. In cases of treason, he shall have power to grant reprieves, by and with the consent of the senate, but may respite the sentence until the end of the

next session of the legislature; but no pardon shall be granted before conviction, and in cases of felony after conviction no pardon shall be granted until the applicant therefor shall have published for thirty days, in some newspaper in the county where the crime was committed, and in case there be no newspaper published in said county, then in an adjoining county, his petition for pardon, setting forth therein the reasons why such pardon should be granted.

SEC. 125. The governor shall have the power, and it is hereby made his duty, to suspend alleged defaulting State and county treasurers, and defaulting tax collectors, pending the investigation of their respective accounts, and to make temporary appointments of proper persons to fill the offices while such investigations are being made, and the legislature shall provide for the enforcement of this provision by appropriate legislation.

SEC. 126. There shall be a seal of the State kept by the governor, and used by him officially, and be called the great seal of the State of Mississippi.

SEC. 127. All commissions shall be in the name and by the authority of the State of Mississippi, be sealed with the great seal of State, and be signed by the governor, and attested by the secretary of state.

SEC. 128. There shall be a lieutenant-governor, who shall be elected at the same time, in the same manner, and for the same term, and who shall possess the same qualifications as required of the governor.

SEC. 129. The lieutenant-governor shall, by virtue of his office, be president of the senate. In committee of the whole, he may debate all questions, and when there is an equal division in the senate, or on a joint vote of both houses, he shall give the casting vote.

SEC. 130. The lieutenant-governor shall receive for his services the same compensation as the speaker of the house of representatives.

SEC. 131. When the office of governor shall become vacant, by death or otherwise, the lieutenant-governor shall possess the powers and discharge the duties of said office. When the governor shall be absent from the State, or unable from protracted illness to perform the duties of the office, the lieutenant-governor shall discharge the duties of said office until the governor be able to resume his duties; but, if from disability or otherwise, the lieutenant-governor shall be incapable of performing said duties, or if he be absent from the State, the president of the senate pro tempore shall act in his stead; but if there be no such president, or if he be disqualified by like disability, or be absent from the State, then the speaker of the house of representatives shall assume the office of governor, and perform said duties; and in case of the inability of the foregoing officers to discharge the duties of governor, the secretary of state shall convene the senate, to elect a president pro tempore. The officer discharging the duties of governor shall receive the compensation as such. Should a doubt arise as to whether a vacancy has occurred in the office of governor or as to whether any one of the disabilities mentioned in this section exists or shall have ended, then the secretary of state shall submit the question in doubt to the judges of the supreme court, who, or a majority of whom, shall investigate and determine said question; and shall furnish to said secretary of state an opinion in writing determining the question submitted to them, which opinion when rendered as aforesaid shall be final and conclusive.

SEC. 132. In case the election for lieutenant governor shall be contested, the contest shall be tried and determined in the same manner as a contest for the office of governor.

SEC. 133. There shall be a secretary of State, who shall be elected as herein provided. He shall be at least twenty-five years of age, a citizen of the State five years next preceding the day of his election, and he shall continue in office during the term of four years, and shall be keeper of the capitol; he shall keep a correct register of all official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before the legislature, and he shall perform such other duties as may be required of him by law. He shall receive such compensation as shall be prescribed.

SEC. 134. A State treasurer and an auditor of public accounts shall be elected as herein provided, who shall hold their offices for the term of four years, and shall possess the same qualifications as required for the secretary of state; they shall receive such compensation as may be provided by law. Said treasurer and auditor of public accounts shall be ineligible to immediately succeed themselves or each other in office.

SEC. 135. There shall be a sheriff, coroner, treasurer, assessor and surveyor for each county; to be selected as elsewhere provided herein, who shall hold their offices for four years. The sheriff and treasurer shall be ineligible to immediately succeed themselves or each other in office.

SEC. 136. All officers named in this article shall hold their offices during the term for which they were selected, unless removed, and until their successors shall be duly qualified to enter on the discharge of their respective duties.

SEC. 137. It shall be the duty of the state treasurer, within ten days after the first day of January and July of each year, to publish a statement under oath, in some newspaper published at the seat of government, showing the condition of the treasury on said days, the balance on hand and in what funds, together with a certificate of the governor that he has verified the count of the funds in the treasury and found the balance, stated by the treasurer, actually in the vaults of the treasury, or as the truth may be. And it shall be the duty of the governor at such times as he may deem proper, to go to the treasury, without giving notice to the treasurer, and verify the cash balance as shown by the books, and to publish the fact that he has done so, and whether the amount called for by the books be actually in the treasury, and stating whether the treasurer had any notice whatever that the verification would be made.

SEC. 138. The sheriff, coroner, treasurer, assessor, surveyor, clerks of the courts, and members of the board of supervisors of the several counties, and all other officers exercising local jurisdiction therein, shall be selected in the manner provided by law for each county.

SEC. 139. The legislature may empower the governor to remove and appoint officers, in any county or counties or municipal corporations, under such regulations as may be prescribed by law.

SEC. 140. The governor of the State shall be chosen in the following manner: On the first Tuesday after the first Monday of November of A. D., 1895, and on the first Tuesday after first Monday of Novem-

ber in every fourth year thereafter, until the day shall be changed by law, an election shall be held in the several counties and districts created for the election of members of the house of representatives in this State, for governor, and the person receiving in any county or such legislative district the highest number of votes cast therein, for said office, shall be holden to have received as many votes as such county or district is entitled to members in the house of representatives, which last named votes are hereby designated "electoral votes." In all cases where a representative is apportioned to two or more counties or districts the electoral vote based on such representative shall be equally divided among such counties or districts. The returns of said election shall be certified by the election commissioners, or a majority of them, of the several counties, and transmitted, sealed, to the seat of government, directed to the secretary of state, and shall be by him safely kept and delivered to the speaker of the house of representatives at the next ensuing session of the legislature within one day after he shall have been elected. The speaker shall, on the next Tuesday after he shall have received said returns, open and publish them in the presence of the house of representatives, and said house shall ascertain and count the vote of each county and legislative district and decide any contest that may be made concerning the same, and said decision shall be made by a majority of the whole number of members of the house of representatives concurring therein, by a viva voce vote, which shall be recorded in its journal; provided, in case the two highest candidates have an equal number of votes in any county or legislative district, the electoral vote of such county or legislative district shall be considered as equally divided between them. The person found to have received a majority of all the electoral votes, and also a majority of the popular vote, shall be declared elected.

SEC. 141. If no person shall receive such majorities, then the house of representatives shall proceed to choose a governor from the two persons who shall have received the highest number of popular votes; the election shall be by viva voce vote, which shall be recorded in the journal, in such manner as to show for whom each member voted.

SEC. 142. In case of an election of governor or any State officer by the house of representatives, no member of that house shall be eligible to receive any appointment from the governor or other State officer so elected, during the term for which he shall be selected.

SEC. 143. All other State officers shall be elected at the same time, and in the same manner as provided for election of governor.

## ARTICLE 6

### JUDICIARY

SEC. 144. The judicial power of the State shall be vested in a supreme court and such other courts as are provided for in this constitution.

SEC. 145. The supreme court shall consist of three judges, any two of whom, when convened, shall form a quorum. The legislature shall divide the State into three supreme court districts, and the governor, by and with the advice and consent of the senate, shall appoint one judge for and from each district; but the removal of a judge to

the State capital during his term of office shall not render him ineligible as his own successor for the district from which he has removed. The present incumbents shall be considered as holding their terms of office from the State at large.

SEC. 146. The supreme court shall have such jurisdiction as properly belongs to a court of appeals.

SEC. 147. No judgment or decree in any chancery or circuit court rendered in a civil cause, shall be reversed or annulled on the ground of want of jurisdiction to render said judgment or decree, from any error or mistake as to whether the cause in which it was rendered was of equity or common law jurisdiction; but if the supreme court shall find error in the proceedings other than as to jurisdiction, and it shall be necessary to remand the case, the supreme court may remand it to that court which in its opinion can best determine the controversy.

SEC. 148. The supreme court shall be held twice in each year at the seat of government, at such time as the legislature may provide.

SEC. 149. The term of office of the judges of the supreme court shall be nine years. The office of one of said judges shall be vacated in three years, one in six years, and one in nine years, so that at the expiration of every three years one of said judges shall be appointed as aforesaid.

SEC. 150. No person shall be eligible to the office of judge of the supreme court who shall not have attained the age of thirty years at the time of his appointment, and who shall not have been a practicing attorney and a citizen of the State for five years immediately preceding such appointment.

SEC. 151. All vacancies which may occur in said court from death, resignation, or removal, shall be filled by appointment as aforesaid; but if a vacancy shall occur during the recess of the legislature, the governor shall appoint a successor who shall hold his office until the end of the next session of the senate unless his nomination shall be sooner rejected.

SEC. 152. The legislature shall divide the State into convenient circuit and chancery court districts.

SEC. 153. The judges of the circuit courts and of the chancery courts shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices for the term of four years.

SEC. 154. No person shall be eligible to the office of judge of the circuit or of the chancery court, who shall not have been a practicing lawyer for five years, and who shall not have attained the age of twenty-six years, and who shall not have been five years a citizen of this State.

SEC. 155. The judges of the several courts of this State shall, before they proceed to execute the duties of their respective offices, take the following oath or affirmation, to-wit: "I, ———, solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ——— according to the best of my ability and understanding, agreeably to the constitution of the United States, and the constitution and laws of the State of Mississippi; so help me God."

SEC. 156. The circuit court shall have original jurisdiction in all



matters civil and criminal in this State not vested by this constitution in some other court, and such appellate jurisdiction as shall be prescribed by law.

SEC. 157. All causes that may be brought in the circuit court whereof the chancery court has exclusive jurisdiction shall be transferred to the chancery court.

SEC. 158. A circuit court shall be held in each county at least twice in each year, and the judges of said courts may interchange circuits with each other in such manner as may be provided by law.

SEC. 159. The chancery court shall have full jurisdiction in the following matters and cases, viz:

- (a) All matters in equity.
- (b) Divorce and alimony.
- (c) Matters testamentary and of administration.
- (d) Minor's business.
- (e) Cases of idiocy, lunacy and persons of unsound mind.
- (f) All cases of which the said court had jurisdiction under the laws in force when this constitution is put in operation.

SEC. 160. And in addition to the jurisdiction heretofore exercised by the chancery court in suits to try title and to cancel deeds and other clouds upon title to real estate, it shall have jurisdiction in such cases to decree possession, and to displace possession, to decree rents and compensation for improvements and taxes; and in all cases where said court heretofore exercised jurisdiction, auxiliary to courts of common law, it may exercise such jurisdiction to grant the relief sought although the legal remedy may not have been exhausted or the legal title established by a suit at law.

SEC. 161. And the chancery court shall have jurisdiction, concurrent with the circuit court, of suits on bonds of fiduciaries and public officers for failure to account for money or property received or wasted or lost by neglect or failure to collect, and of suits involving inquiry into matters of mutual accounts; but if the plaintiff brings his suit in the circuit court, that court may, on application of the defendant, transfer the cause to the chancery court if it appears that the accounts to be investigated are mutual and complicated.

SEC. 162. All causes that may be brought in the chancery court whereof the circuit court has exclusive jurisdiction shall be transferred to the circuit court.

SEC. 163. The legislature shall provide by law for the due certification of all causes that may be transferred to or from any chancery court or circuit court, for such reformation of the pleadings therein as may be necessary, and the adjudication of the costs of such transfer.

SEC. 164. A chancery court shall be held in each county at least twice in each year.

SEC. 165. No judge of any court shall preside on the trial of any cause where the parties or either of them shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by the consent of the judge and of the parties. Whenever any judge of the supreme court or the judge or chancellor of any district, in this State, shall, for any reason, be unable or disqualified to preside at any term of court, or in any case where the attorneys engaged therein shall not agree upon a member of the bar to preside in his place, the governor may commission another, or

others, of law knowledge to preside at such term or during such disability or disqualification in the place of the judge or judges so disqualified. When either party shall desire, the supreme court for the trial of any cause shall be composed of three judges. No judgment or decree shall be affirmed by disagreement of two judges constituting a quorum.

SEC. 166. The judges of the supreme court, of the circuit courts and the chancellors shall receive for their services a compensation to be fixed by law, which shall not be increased or diminished during their continuance in office.

SEC. 167. All civil officers shall be conservators of the peace, and shall be, by law, vested with ample power as such.

SEC. 168. The clerk of the supreme court shall be elected as other State officers for the term of four years, and the clerk of the circuit court and the clerk of the chancery court shall be selected in each county in the manner provided by law, and shall hold office for the term of four years, and the legislature shall provide by law what duties shall be performed during vacation by the clerks of the circuit and chancery courts, subject to the approval of the court.

SEC. 169. The style of all process shall be "The State of Mississippi," and all prosecutions shall be carried on in the name and by authority of the "State of Mississippi," and all indictments shall conclude "against the peace and dignity of the State."

SEC. 170. Each county shall be divided into five districts. A resident freeholder of each district shall be selected, in the manner prescribed by law, and the five so chosen shall constitute the board of supervisors of the county, a majority of whom may transact business. The board of supervisors shall have full jurisdiction over roads, ferries and bridges, to be exercised in accordance with such regulations as the legislature may prescribe, and perform such other duties as may be required by law. The clerk of the chancery court of each county shall be clerk of the board of supervisors.

SEC. 171. A competent number of justices of the peace and constables shall be chosen in each county in the manner provided by law, for each district, who shall hold their office for the term of four years. No person shall be eligible to the office of justice of the peace who shall not have resided two years in the district next preceding his selection. The jurisdiction of justices of the peace shall extend to causes in which the principal amount in controversy shall not exceed the sum of two hundred dollars; and they shall have jurisdiction concurrent with the circuit court over all crimes whereof the punishment prescribed does not extend beyond a fine and imprisonment in the county jail; but the legislature may confer on the justices of the peace exclusive jurisdiction in such petty misdemeanors as it shall see proper. In all causes tried by a justice of the peace, the right of appeal shall be secured under such rules and regulations as shall be prescribed by law, and no justice of the peace shall preside at the trial of any cause where he may be interested, or the parties or either of them shall be connected with him by affinity or consanguinity, except by the consent of the justice of the peace and of the parties.

SEC. 172. The legislature shall, from time to time, establish such other inferior courts as may be necessary, and abolish the same whenever deemed expedient.

SEC. 173. There shall be an attorney-general elected at the same time and in the same manner as the governor is elected, whose term of office shall be four years, and whose compensation shall be fixed by law. The qualifications for the attorney-general shall be the same as herein prescribed for judges of the circuit and chancery courts.

SEC. 174. A district attorney for each circuit court district shall be selected in the manner provided by law, whose term of office shall be four years, whose duties shall be prescribed by law, and whose compensation shall be a fixed salary.

SEC. 175. All public officers, for willful neglect of duty, or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and upon conviction, shall be removed from office, and otherwise punished as may be prescribed by law.

SEC. 176. No person shall be a member of the board of supervisors who is not a resident freeholder in the district for which he is chosen. The value of real estate necessary to be owned to qualify persons in the several counties to be members of said board shall be fixed by law.

SEC. 177. The governor shall have power to fill any vacancy which may happen during the recess of the senate, in the office of judge or chancellor, by making a temporary appointment of an incumbent, which shall expire at the end of the next session of the senate, unless a successor shall be sooner appointed, and confirmed by the senate. When a temporary appointment of a judge or chancellor has been made during the recess of the senate, the governor shall have no power to remove the person or appointee, nor power to withhold his name from the senate for their action.

## ARTICLE 7

### CORPORATION

SEC. 178. Corporations shall be formed under general laws only. The legislature shall have power to alter, amend or repeal any charter of incorporation now existing, and revocable, and any that may hereafter be created, whenever in its opinion it may be for the public interest to do so; provided, however, that no injustice shall be done to the stockholders. No charter for any private corporation for pecuniary gain shall be granted for a longer period than ninety-nine years. In assessing for taxation the property and franchises of corporations, having charters for a longer period than ninety-nine years, the increased value of such property and franchises arising from such longer duration of their charters shall be considered and assessed; but any such corporation shall have the right to surrender the excess over ninety-nine years of its charter.

SEC. 179. The legislature shall never remit the forfeiture of the franchise of any corporation now existing, nor alter nor amend the charter thereof, nor pass any general nor special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter and franchises subject to the provisions of this constitution; and the reception by any corporation of any provision of any such laws, or the taking of any benefit or advantage from the same, shall be conclusively held an agreement by such corporation to hold thereafter its charter and franchises under the provisions hereof.

SEC. 180. All existing charters or grants of corporate franchise under which organizations have not in good faith taken place at the adoption of this constitution shall be subject to the provisions of this article; and all such charters under which organizations shall not take place in good faith and business be commenced within one year from the adoption of this constitution, shall thereafter have no validity; and every charter or grant of corporate franchise hereafter made shall have no validity, unless an organization shall take place thereunder and business be commenced within two years from the date of such charter or grant.

SEC. 181. The property of all private corporations for pecuniary gain shall be taxed in the same way and to the same extent as the property of individuals, but the legislature may provide for the taxation of banks and banking capital, by taxing the shares according to the value thereof, (augmented by the accumulations, surplus and unpaid dividends,) exclusive of real estate, which shall be taxed as other real estate. Exemptions from taxation to which corporations are legally entitled at the adoption of this constitution, shall remain in full force and effect for the time of such exemptions as expressed in their respective charters, or by general laws, unless sooner repealed by the legislature. And domestic insurance companies shall not be required to pay a greater tax in the aggregate than is required to be paid by foreign insurance companies doing business in this State, except to the extent of the excess of their *ad valorem* tax over the privilege tax imposed upon such foreign companies; and the legislature may impose privilege taxes on building and loan associations in lieu of all other taxes except on their real estate.

SEC. 182. The power to tax corporations and their property shall never be surrendered or abridged by any contract or grant to which the State or any political subdivision thereof may be a party, except that the legislature may grant exemption from taxation in the encouragement of manufactures and other new enterprises of public utility extending for a period not exceeding five years, the time of such exemptions to commence from date of charter, if to a corporation; and if to an individual enterprise, then from the commencement of work; but when the legislature grants such exemptions for a period of five years or less, it shall be done by general laws, which shall distinctly enumerate the classes of manufactures and other new enterprises of public utility entitled to such exemptions, and shall prescribe the mode and manner in which the right to such exemptions shall be determined.

SEC. 183. No county, city, town or other municipal corporation shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation, or loan its credit in aid of such corporation or association. All authority heretofore conferred for any of the purposes aforesaid by the legislature or by the charter of any corporation, is hereby repealed. Nothing in this section contained shall affect the right of any such corporation, municipality or county to make such subscription where the same has been authorized under laws existing at the time of the adoption of this constitution, and by a vote of the people thereof, had prior to its adoption, and where the terms of submission and subscription have been or shall be complied with, or to prevent the issue of renewal bonds, or the use of such other means as are or may

be prescribed by law for the payment or liquidation of such subscription, or of any existing indebtedness.

SEC. 184. All railroads which carry persons or property for hire, shall be public highways, and all railroad companies so engaged shall be common carriers. Any company organized for that purpose under the laws of the State, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with roads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad; and all railroad companies shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without unnecessary delay or discrimination.

SEC. 185. The rolling stock, belonging to any railroad company or corporation in this State, shall be considered personal property and shall be liable to execution and sale as such.

SEC. 186. The legislature shall pass laws to prevent abuses, unjust discrimination and extortion in all charges of express, telephone, sleeping car, telegraph and railroad companies, and shall enact laws for the supervision of railroads, express, telephone, telegraph, sleeping car companies and other common carriers in this State, by commission or otherwise, and shall provide adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their franchises.

SEC. 187. No railroad hereafter constructed in this State, shall pass within three miles of any county seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles; provided, such town or citizens shall grant the right-of-way through its limits, and sufficient ground for ordinary depot purposes.

SEC. 188. No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the legislature, or any State, district, county or municipal officers, except railroad commissioners. The legislature shall enact suitable laws for the detection, prevention and punishment of violations of this provision.

SEC. 189. All charters granted to private corporations in this State shall be recorded in the chancery clerk's office of the county in which the principal office or place of business of such company shall be located.

SEC. 190. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the legislature from taking the property and franchises of incorporated companies, and subjecting them to public use; and the exercise of the police powers of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe upon the rights of individuals, or the general well being of the State.

SEC. 191. The legislature shall provide for the protection of the employees of all corporations doing business in this State from interference with their social, civil, or political rights by said corporations, their agents or employees.

SEC. 192. Provision shall be made by general laws whereby cities and towns may be authorized to aid and encourage the establishment of manufactories, gas-works, waterworks, and other enterprises of public utility other than railroads, within the limits of said cities



or towns, by exempting all property used for such purposes, from municipal taxation for a period not longer than ten years.

SEC. 193. Every employee of any railroad corporation shall have the same right and remedies for any injury suffered by him from the act or omission of said corporation or its employees, as are allowed by law to other persons not employees, where the injury results from the negligence of a superior agent or officer, or of a person having the right to control or direct the services of the party injured, and also when the injury results from the negligence of a fellow-servant engaged in another department of labor from that of the party injured, or of a fellow-servant on another train of cars, or one engaged about a different piece of work. Knowledge by any employee injured, of the defective or unsafe character or condition of any machinery, ways or appliances, shall be no defense to an action for injury caused thereby, except as to conductors or engineers in charge of dangerous or unsafe cars, or engines voluntarily operated by them. Where death ensues from any injury to employees, the legal or personal representatives of the person injured shall have the same right and remedies as are allowed by law to such representatives of other persons. Any contract or agreement, express or implied, made by any employee to waive the benefit of this section shall be null and void; and this section shall not be construed to deprive any employee of a corporation or his legal or personal representative, of any right or remedy that he now has by the law of the land. The legislature may extend the remedies herein provided for to any other class of employees.

SEC. 194. The legislature shall provide by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, so as to give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall see fit; and such directors or managers shall not be elected in any other manner; but no person who is engaged or interested in a competing business, either individually or as employee, or stockholder, shall serve on any board of directors of any corporation without the consent of a majority in interest of the stockholders thereof.

SEC. 195. Express, telegraph, telephone and sleeping car companies are declared common carriers in their respective lines of business and subject to liability as such.

SEC. 196. No transportation corporation shall issue stocks or bonds except for money, labor done, or in good faith agreed to be done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void.

SEC. 197. The legislature shall not grant to any foreign corporation or association, a license to build, operate or lease any railroad in this State; but in all cases where a railroad is to be built or operated, and the same shall be partly in this State and partly in another State, or in other States, the owners or projectors thereof shall first become incorporated under the laws of this State; nor shall any foreign corporation or association lease or operate any railroad in this State or

purchase the same, or any interest therein; consolidation of any railroad lines and corporations in this State with others shall be allowed only where the consolidated company shall become a domestic corporation of this State. No general or special law shall ever be passed for the benefit of any foreign corporation operating a railroad under an existing license from this State, or under an existing lease; and no grant of any right or privilege, and no exemption from any burden, shall be made to any such foreign corporation except upon the condition that the owners or stockholders thereof shall first organize a corporation in this State under the laws thereof, and shall thereafter operate and manage the same, and the business thereof under said domestic charter.

SEC. 198. The legislature shall enact laws to prevent all trusts, combinations, contracts and agreements inimical to the public welfare.

SEC. 199. The term corporation used in this article shall include all associations and all joint stock companies for pecuniary gain, having privileges not possessed by individuals or partnerships.

SEC. 200. The legislature shall enforce the provisions of this article by appropriate legislation.

## ARTICLE 8

### EDUCATION

SEC. 201. It shall be the duty of the legislature to encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools, by taxation, or otherwise, for all children between the ages of five and twenty-one years, and, as soon as practicable, to establish schools of higher grade.

SEC. 202. There shall be a superintendent of public education elected at the same time and in the same manner as the governor, who shall have the qualifications required of the secretary of state, and hold his office for four years and until his successor shall be elected and qualified, who shall have the general supervision of the common schools, and of the educational interests of the State, and who shall perform such other duties and receive such compensation, as shall be prescribed by law.

SEC. 203. There shall be a board of education, consisting of the secretary of state, the attorney-general, and the superintendent of public education, for the management and investment of the school funds, according to law, and for the performance of such other duties as may be prescribed. The superintendent and one other of said board shall constitute a quorum.

SEC. 204. There shall be a superintendent of public education in each county, who shall be appointed by the board of education by and with the advice and consent of the senate, whose term of office shall be four years, and whose qualifications, compensation and duties, shall be prescribed by law; provided, that the legislature shall have power to make the office of county school superintendent of the several counties elective, or may otherwise provide for the discharge of the duties of county superintendent, or abolish said office.

SEC. 205. A public school shall be maintained in each school district in the county at least four months during each scholastic year. A

school district neglecting to maintain its school four months, shall be entitled to only such part of the free school fund as may be required to pay the teacher for the time actually taught.

SEC. 206. There shall be a common school fund which shall consist of the poll tax (to be retained in the counties where the same is collected) and an additional sum from the general fund in the State treasury which together shall be sufficient to maintain the common schools for the term of four months in each scholastic year. But any county or separate school district may levy an additional tax to maintain its schools for a longer time than the term of four months. The common school fund shall be distributed among the several counties and separate school districts, in proportion to the number of educable children in each, to be determined from data collected through the office of the state superintendent of education, in the manner to be prescribed by law.

SEC. 207. Separate schools shall be maintained for children of the white and colored races.

SEC. 208. No religious or other sect, or sects, shall ever control any part of the school or other educational funds of this State; nor shall any funds be appropriated towards the support of any sectarian school; or to any school that at the time of receiving such appropriation is not conducted as a free school.

SEC. 209. It shall be the duty of the legislature to provide by law for the support of institutions for the education of the deaf, dumb, and blind.

SEC. 210. No public officer of this State, or any district, county, city or town thereof, nor any teacher or trustee of any public school, shall be interested in the sale, proceeds or profits of any books, apparatus or furniture to be used in any public school in this State. Penalties shall be provided by law for the violation of this section.

SEC. 211. The Legislature shall enact such laws as may be necessary to ascertain the true condition of the title to the 16th sections of land in this State, or land granted in lieu thereof, in the Choctaw purchase, and shall provide that the sixteenth section lands reserved for the support of township schools shall not be sold, nor shall they be leased for a longer term than ten years for a gross sum; but the legislature may provide for the lease of any of said lands for a term not exceeding twenty-five years for a ground rental payable annually, and, in case of uncleared lands, may lease them for such short term as may be deemed proper in consideration of the improvement thereof, with right thereafter to lease for a term or to hold on payment of ground rent.

SEC. 212. The rate of interest on the fund known as the Chickasaw school fund, and other trust funds for educational purposes, for which the State is responsible, shall be fixed and remain as long as said funds are held by the State, at six per centum per annum, from and after the close of the fiscal year A. D., 1891, and the distribution of said interest shall be made semi-annually on the first of May and November of each year.

SEC. 213. The State having received and appropriated the land donated to it for the support of Agricultural and Mechanical Colleges, by the United States, and having, in furtherance of the beneficent design of Congress in granting said land, established the Agricultural and Mechanical College of Mississippi, and the Alcorn Agri-

cultural and Mechanical College, it is the duty of the State to sacredly carry out the conditions of the act of Congress, upon the subject, approved July 2d, A. D., 1862, and the legislature shall preserve intact the endowments to, and support, said colleges.

## ARTICLE 9

### MILITIA

SEC. 214. All able-bodied male citizens of the State between the ages of eighteen and forty-five years shall be liable to military duty in the militia of this State, in such manner as the legislature may provide.

SEC. 215. The legislature shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same when called into active service.

SEC. 216. All officers of militia, except non-commissioned officers, shall be appointed by the governor, by and with the consent of the senate, or elected, as the legislature may determine; and no commissioned officer shall be removed from office except by the senate on suggestion of the governor, stating the ground on which such removal is recommended, or by the decision of a court-martial, pursuant to law, or at his own request.

SEC. 217. The governor shall be commander-in-chief of the militia, except when it is called into the service of the United States, and shall have power to call forth the militia to execute the laws, repel invasion, and to suppress riots and insurrections.

SEC. 218. The governor shall nominate, and, by and with the consent of the senate, commission one major-general for the State, who shall be a citizen thereof, and also one brigadier-general for each congressional district, who shall be a resident of the district for which he shall be appointed, and each district shall constitute a militia division.

SEC. 219. The adjutant-general, and other staff officers to the commander-in-chief, shall be appointed by the governor, and their appointment shall expire with the governor's term of office, and the legislature shall provide by law a salary for the adjutant-general commensurate with the duties of said office.

SEC. 220. The militia shall be exempt from arrest during their attendance on musters, and in going to and returning from the same, except in case of treason, felony or breach of the peace.

SEC. 221. The legislature is hereby required to make an annual appropriation for the efficient support and maintenance of the Mississippi National Guard, which shall consist of not less than one hundred men for each senator and representative to which this State may be entitled in the Congress of the United States; but no part of such funds shall be used in the payment of said guard except when in actual service.

SEC. 222. The legislature shall empower the board of supervisors of each county in the State to aid in supporting a military company or companies, of the Mississippi National Guard, within its borders, under such regulations, limitations and restrictions as may be prescribed by law.

## ARTICLE 10

## THE PENITENTIARY AND PRISONS

SEC. 223. No penitentiary convict shall ever be leased or hired to any person or persons, or corporation, private or public or quasi public, or board, after December the 31st, A. D. 1894, save as authorized in the next section, nor shall any previous lease or hiring of convicts extend beyond that date; and the legislature shall abandon the system of such leasing or hiring as much sooner than the date mentioned as may be consistent with the economic safety of the State.

SEC. 224. The legislature may authorize the employment under State supervision, and the proper officers and employees of the State, of convicts on public roads or other public works, or by any levee board on any public levees, under such provisions and restrictions as it may from time to time see proper to impose; but said convicts shall not be let or hired to any contractor under said board, nor shall the working of convicts on public roads, or public works, by any levee board ever interfere with the preparation for or the cultivation of any crop which it may be intended shall be cultivated by the said convicts, nor interfere with the good management of the State farm, nor put the State to any expense.

SEC. 225. The legislature may place the convicts on a State farm or farms and have them worked thereon under State supervision exclusively, in tilling the soil or manufacturing, or both, and may buy farms for that purpose. It may establish a reformatory school or schools, and provide for keeping of juvenile offenders from association with hardened criminals. It may provide for the commutation of the sentence of convicts for good behavior, and for the constant separation of the sexes, and for the separation of the white and black convicts as far as practicable, and for religious worship for the convicts.

SEC. 226. Convicts sentenced to the county jail shall not be hired or leased to any person or corporation outside the county of their conviction, after the first day of January, A. D., 1893, nor for a term which shall extend beyond that date.

## ARTICLE 11

## LEVEES

SEC. 227. A levee system shall be maintained in the State as provided in this article.

SEC. 228. The division heretofore made by the legislature of the alluvial land of the State into two levee districts, viz: The Yazoo-Mississippi Delta Levee District, and the Mississippi Levee District, as shown by the laws creating the same, and the amendments thereto, is hereby recognized, and said districts shall so remain until changed by law; but the legislature may hereafter add to either of said districts any other alluvial land in the State.

SEC. 229. There shall be a board of levee commissioners for the Yazoo-Mississippi Delta Levee District, which shall consist of two members from each of the counties of Coahoma and Tunica, and one member from each of the remaining counties or parts of counties,



now or hereafter embraced within the limits of said district, and the governor may appoint a stockholder in the Louisville, New Orleans & Texas Railway Company as an additional commissioner; and there shall also be a board of levee commissioners for the Mississippi Levee District, which shall consist of two members from each of the counties of Bolivar and Washington, and one from each of the counties of Issaquena and Sharkey. In the event of the formation of a new county or counties out of the territory embraced in either or both of said levee districts such new counties shall each be entitled to representation and membership in the proper board or boards.

SEC. 230. All of said commissioners shall be qualified electors of the respective counties or parts of counties from which they may be chosen, except the one selected for the Louisville, New Orleans & Texas Railway Company; and the legislature shall provide that they shall each give bond for the faithful performance of his duties, and shall fix the penalty thereof; but the penalty of such bond in no instance shall be fixed at less than \$10,000, and the sureties thereon shall be freeholders of the district.

SEC. 231. When the terms of the present levee commissioners shall expire, or whenever a vacancy shall occur or be about to occur, in either of said boards, the governor shall make appointments to fill vacancies, subject to the confirmation of the senate. The terms of office of said commissioners shall remain as provided by law at the adoption of this constitution, but this provision shall not require the appointment of a commissioner for the Louisville, New Orleans & Texas Railway Company, except in the discretion of the governor as provided.

SEC. 232. The commissioners of said levee districts shall have supervision of the erection, repair and maintenance of the levees in their respective districts.

SEC. 233. The levee boards shall have and are hereby granted authority and full power to appropriate private property in their respective districts for the purpose of constructing, maintaining and repairing levees therein; and when any owner of land, or any other person interested therein, shall object to the location or building of the levee thereon, or shall claim compensation for any land that may be taken, or for any damages he may sustain in consequence thereof, the president or other proper officer or agent of such levee board, or owner of such land, or other person interested therein, may forthwith apply for an assessment of the damages to which said person claiming the same may be entitled whereupon the proceedings as now provided by law shall be taken, viz: in the Mississippi Levee District, in accordance with the terms and provisions of section 3 of an act entitled "an act to amend an act to incorporate the Board of Levee Commissioners for Bolivar, Washington and Issaquena counties, and for other purposes," approved, November, 27, A. D., 1865, and to revise acts amendatory thereof, approved March 13, A. D. 1884; and in the Yazoo-Mississippi Delta Levee District, in accordance with the terms and provisions of section three of an act entitled "an act to incorporate the board of levee commissioners for the Yazoo-Mississippi Delta, and for other purposes," approved February 28, A. D., 1884," and the amendments thereto: but the legislature shall have full power to alter and amend said several acts, and to provide different manners of procedure.

SEC. 234. No bill changing the boundaries of the district or affecting the taxation or revenue of the Yazoo-Mississippi Delta Levee District, or the Mississippi Levee District, shall be considered by the legislature unless said bill shall have been published in some newspaper in the county in which is situated the domicile of the board of levee commissioners of the levee district to be affected thereby, for four weeks prior to the introduction thereof into the legislature; and no such bill shall be considered for final passage by either the senate or house of representatives, unless the same shall have been referred to, and reported on, by an appropriate committee of each house in which the same may be pending; and no such committee shall consider or report on any such bill unless publication thereof shall have been made as aforesaid.

SEC. 235. Each levee board shall make at the end of each fiscal year, to the governor of this State, a report showing the condition of the levees, and recommending such additional legislation on the subject of the system as shall be thought necessary, and showing the receipts and expenditures of the board, so that each item, the amount and consideration therefor, shall distinctly appear, together with such other matters as it shall be thought proper to call to the attention of the legislature.

SEC. 236. The legislature shall impose for levee purposes, in addition to the levee taxes heretofore levied or authorized by law, a uniform tax of not less than two nor more than five cents an acre, per annum, upon every acre of land now, or hereafter, embraced within the limits of either, or both, of said levee districts. The taxes so derived shall be paid into the treasury of the levee board of the district in which the land charged with the same is situated; and the legislature, by the act imposing said tax, shall authorize said levee boards to fix the annual rate of taxation per acre within the limits aforesaid, and thereby require said levee boards, whenever a reduction is made by them in their other taxes, to make a proportionate reduction in the acreage tax hereinbefore mentioned; but said acreage tax shall not be reduced below two cents an acre per annum; and all reductions in such taxation shall be uniform in each said districts; but the rate of taxation need not be the same in both of them; and such specific taxes shall be assessed on the same assessment roll, and collected under the same penalties as the *ad valorem* taxes for levee purposes, and shall be paid at the same time with the latter. And no levee board shall ever be permitted to buy lands when sold for taxes; but the senate shall have a prior lien for the taxes due thereto. The legislature may provide for the discontinuance of the tax on cotton, but not in such manner as to affect outstanding bonds based on it, and on the discontinuance of the tax on cotton, shall impose another tax in lieu thereof, but the legislature may repeal the acreage tax required to be levied hereby, after the first day of January, A. D., 1895.

SEC. 237. The legislature shall have full power to provide such system of taxation for said levee districts as it shall from time to time deem wise and proper.

SEC. 238. No property situated between the levee and the Mississippi river shall be taxed for levee purposes, nor shall damage be paid to any owner of land so situated because of it being left outside a levee.

SEC. 239. The legislature shall require the levee boards to publish at each of their sessions, an itemized account embracing their respective receipts since the prior session, and such appropriations as have been made or ordered by them respectively, in some newspaper or newspapers of the district.

## ARTICLE 12

### FRANCHISE

SEC. 240. All elections by the people shall be by ballot.

SEC. 241. Every male inhabitant of this State, except idiots, insane persons and Indians not taxed, who is a citizen of the United States, twenty-one years old and upwards, who has resided in this State two years, and one year in the election district, or in the incorporated city or town, in which he offers to vote, and who is duly registered as provided in this article, and who has never been convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, imbezzlement or bigamy, and who has paid, on or before the first day of February of the year in which he shall offer to vote, all taxes which may have been legally required of him, and which he has had an opportunity of paying according to law, for the two preceding years, and who shall produce to the officers holding the election satisfactory evidence that he has paid said taxes, is declared to be a qualified elector; but any minister of the gospel in charge of an organized church shall be entitled to vote after six months residence in the election district, if otherwise qualified.

SEC. 242. The legislature shall provide by law for the registration of all persons entitled to vote at any election, and all persons offering to register shall take the following oath or affirmation: "I \_\_\_\_\_, do solemnly swear (or affirm) that I am twenty-one years old, (or I will be before the next election in this county) and that I will have resided in this State two years, and \_\_\_\_\_ election district of \_\_\_\_\_ county one year next preceding the ensuing election [or if it be stated in the oath that the person proposing to register is a minister of the gospel in charge of an organized church, then it will be sufficient to aver therein, two years residence in the State and six months in said election district], and am now in good faith a resident of the same, and that I am not disqualified from voting by reason of having been convicted of any crime named in the constitution of this State as a disqualification to be an elector; that I will truly answer all questions propounded to me concerning my antecedents so far as they relate to my right to vote, and also as to my residence before my citizenship in this district; that I will faithfully support the constitution of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same. So help me God." In registering voters in cities and towns, not wholly in one election district, the name of such city or town may be substituted in the oath for the election district. Any willful and corrupt false statement in said affidavit, or in answer to any material question propounded as herein authorized, shall be perjury.

SEC. 243. A uniform poll tax of two dollars, to be used in aid of the common schools, and for no other purpose, is hereby imposed on every male inhabitant of this State between the ages of twenty-one

and sixty years, except persons who are deaf and dumb or blind, or who are maimed by loss of hand or foot; said tax to be a lien only upon taxable property. The board of supervisors of any county may, for the purpose of aiding the common schools in that county, increase the poll tax in said county, but in no case shall the entire poll tax exceed in any one year three dollars on each poll. No criminal proceedings shall be allowed to enforce the collection of the poll tax.

SEC. 244. On and after the first day of January, A. D., 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this State; or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January the first, A. D., 1892.

SEC. 245. Electors in municipal elections shall possess all the qualifications herein prescribed, and such additional qualifications as may be provided by law.

SEC. 246. Prior to the first day of January, A. D., 1896, the elections by the people in this State shall be regulated by an ordinance of this convention.

SEC. 247. The legislature shall enact laws to secure fairness in party primary elections, conventions or other methods of naming party candidates.

SEC. 248. Suitable remedies by appeal or otherwise shall be provided by law, to correct illegal or improper registration and to secure the elective franchise to those who may be illegally or improperly denied the same.

SEC. 249. No one shall be allowed to vote for members of the legislature or other officers who has not been duly registered under the constitution and laws of this State, by an officer of this State, legally authorized to register the voters thereof. And registration under the constitution and laws of this State by the proper officers of this State is hereby declared to be an essential and necessary qualification to vote at any and all elections.

SEC. 250. All qualified electors and no others shall be eligible to office as otherwise provided in this constitution.

SEC. 251. Electors shall not be registered within four months next before any election at which they may offer to vote; but appeals may be heard and determined and revision take place at any time prior to the election; and no person who, in respect to age and residence, would become entitled to vote, within the said four months, shall be excluded from registration on account of his want of qualification at the time of registration.

SEC. 252. The term of office of all elective officers under this constitution shall be four years, except as otherwise provided herein. A general election for all elective officers shall be held on the Tuesday next after the first Monday of November, A. D., 1895, and every four (4) years thereafter; provided, the legislature may change the day and date of general elections to any day and date in October, November or December.

SEC. 253. The legislature may by a two-thirds vote of both houses, of all members elected, restore the right of suffrage to any person disqualified by reason of crime; but the reasons therefor shall be spread upon the journals, and the vote shall be by yeas and nays.

## ARTICLE 13

## APPORTIONMENT

SEC. 254. The number of representatives in the lower house of the legislature shall be one hundred and thirty-three, to be apportioned as follows:

First—The counties of Choctaw, Covington, Greene, Hancock, Issaquena, Jones, Lawrence, Leflore, Marion, Neshoba, Pearl River, Perry, Quitman, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tishomingo, Tunica, Wayne and Webster, each shall have one representative.

Second—The counties of Alcorn, Amite, Attala, Bolivar, Calhoun, Carroll, Chickasaw, Clay, Coahoma, DeSoto, Kemper, Lafayette, Madison, Newton, Pike, Pontotoc, Prentiss, Rankin, Tate, Union, Wilkinson and Yalobusha, each shall have two representatives.

Third—The counties of Copiah, Holmes, Marshall, Monroe, Noxubee, Panola, Warren and Washington, each shall have three representatives.

Fourth—The counties of Franklin and Lincoln each shall have one representative and a floater between them.

Fifth—The counties of Tippah and Benton each shall have one representative and a floater between them.

Sixth—The counties of Claiborne and Jefferson each shall have one representative and a floater between them.

Seventh—The counties of Clarke and Jasper each shall have one representative and a floater between them.

Eighth—The counties of Grenada and Montgomery, each shall have one representative and a floater between them.

Ninth—The counties of Leake and Winston, each shall have one representative and a floater between them.

Tenth—The counties of Harrison and Jackson, each shall have one representative and a floater between them.

Eleventh—The county of Yazoo shall have three representatives and the county of Hinds shall have three representatives, and they shall have a floater between them.

Twelfth—The county of Lauderdale shall have three representatives, one to be elected by the city of Meridian, one by the county outside the city limits, and one by the whole county including Meridian.

Thirteenth—The county of Adams outside of the city of Natchez shall have one representative and the city of Natchez one representative.

Fourteenth—The county of Lowndes shall have three representatives, two of whom shall be elected by that part of the county east of the Tombigbee river, and one by that portion of the county west of said river.

Fifteenth—The county of Oktibbeha shall have two representatives, one of whom shall be elected by that portion of the county east of the line running north and south between ranges thirteen and fourteen, and the other by that portion of the county west of said line.

Sixteenth—The county of Lee shall have two representatives, the county of Itawamba one, and a floater between them.



Seventeenth—In counties divided into legislative districts, any citizen of the county eligible for election to the House of Representatives shall be eligible to represent any district thereof.

#### THE SENATE

SEC. 255. The number of senators shall be forty-five and are apportioned as follows:

First—The counties of Hancock, Harrison and Jackson shall constitute the first district, and elect one senator.

Second—The counties of Wayne, Jones, Perry and Greene the second district, and elect one senator.

Third—The counties of Jasper and Clarke the third district, and elect one senator.

Fourth—The counties of Simpson, Covington, Marion and Pearl River, the fourth district, and elect one senator.

Fifth—The counties of Rankin and Smith the fifth district and elect one senator.

Sixth—The counties of Pike and Franklin the sixth district, and elect one senator.

Seventh—The counties of Amite and Wilkinson the seventh district, and elect one senator.

Eighth—The counties of Lincoln and Lawrence the eighth district, and elect one senator.

Ninth—The county of Adams the ninth district, and elect one senator.

Tenth—The counties of Claiborne and Jefferson the tenth district, and elect one senator.

Eleventh—The county of Covich the eleventh district, and elect one senator.

Twelfth—The counties of Hinds and Warren the twelfth district, and elect one senator each and a senator between them, to be chosen from the counties alternately, beginning with Hinds.

Thirteenth—The counties of Scott and Newton the thirteenth district, and elect one senator.

Fourteenth—The county of Lauderdale, the fourteenth district, and elect one senator.

Fifteenth—The counties of Kemper and Winston the fifteenth district, and elect one senator.

Sixteenth—The county of Noxubee the sixteenth district, and elect one senator.

Seventeenth—The counties of Leake and Neshoba the seventeenth district, and elect one senator.

Eighteenth—The county of Madison the eighteenth district, and elect one senator.

Nineteenth—The county of Yazoo the nineteenth district, and elect one senator.

Twentieth—The counties of Sharkey and Issaquena the twentieth district, and elect one senator.

Twenty-first—The county of Holmes the twenty-first district, and elect one senator.

Twenty-second—The county of Attala the twenty-second district and elect one senator.

Twenty-third—The counties of Oktibbeha and Choctaw the twenty-third district, and elect one senator.

Twenty-fourth—The counties of Clay and Webster the twenty-fourth district, and elect one senator.

Twenty-fifth—The county of Lowndes the twenty-fifth district, and elect one senator.

Twenty-sixth—The counties of Carroll and Montgomery the twenty-sixth district, and elect one senator.

Twenty-seventh—The counties of Leflore and Tallahatchie the twenty-seventh district, and elect one senator.

Twenty-eighth—The counties of Yalobusha and Grenada the twenty-eighth district, and elect one senator.

Twenty-ninth—The counties of Washington and Sunflower the twenty-ninth district; the county of Washington shall elect one senator, and the counties of Washington and Sunflower a senator between them.

Thirtieth—The county of Bolivar the thirtieth district, and elect one senator.

Thirty-first—The counties of Chickasaw, Calhoun and Pontotoc the thirty-first district, and elect two senators; both senators shall at no time be chosen from the same county.

Thirty-second—The county of Lafayette the thirty-second district, and elect one senator.

Thirty-third—the county of Panola the thirty-third district, and elect one senator.

Thirty-fourth—The counties of Coahoma, Tunica and Quitman the thirty-fourth district, and elect one senator.

Thirty-fifth—The county of DeSoto the thirty-fifth district, and elect one senator.

Thirty-sixth—The counties of Union, Tippah, Benton, Marshall and Tate the thirty-sixth district, and elect three senators. The counties of Tate and Benton shall be entitled to one; the counties of Union and Tippah one; and the county of Marshall one.

Thirty-seventh—The counties of Tishomingo, Alcorn and Prentiss the thirty-seventh district, and elect one senator.

Thirty-eighth—The counties of Monroe, Lee and Itawamba the thirty-eighth district, and elect two senators, one of whom shall be a resident of the county of Monroe and the other a resident of Lee or Itawamba counties.

SEC. 256. The Legislature may at the first session after the State census of 1895 and decennially thereafter, make a new apportionment of Senators and Representatives. At each apportionment, each county then organized shall have at least one Representative. New counties afterwards created shall be represented as may be provided by law, until the next succeeding apportionment. The counties of Tishomingo, Alcorn, Prentiss, Lee, Itawamba, Tippah, Union, Benton, Marshall, Lafayette, Pontotoc, Monroe, Chickasaw, Calhoun, Yalobusha, Grenada, Carroll, Montgomery, Choctaw, Webster, Clay, Lowndes and Oktibbeha, or the territory now composing them, shall together never have less than forty-four representatives. The counties of Attala, Winston, Noxubee, Kemper, Leake, Neshoba, Lauderdale, Newton, Scott, Rankin, Clarke, Jasper, Smith, Simpson, Copiah, Franklin, Lincoln, Lawrence, Covington, Jones, Wayne.

Greene, Perry, Marion, Pike, Pearl River, Hancock, Harrison and Jackson, or the territory now composing them, shall together never have less than forty-four representatives; nor shall the remaining counties of the State, or the territory now composing them, ever have less than forty-four representatives. A reduction in the number of senators and representatives may be made by the legislature if the same be uniform in each of the three said divisions; but the number of representatives shall not be less than one hundred, nor more than one hundred and thirty-three; nor the number of senators less than thirty, nor more than forty-five.

## ARTICLE 14

### GENERAL PROVISIONS

SEC. 257. The political year of the State of Mississippi shall commence on the first Monday of January in each year.

SEC. 258. The credit of the State shall not be pledged or loaned in aid of any person, association or corporation; and the State shall not become a stockholder in any corporation or association, nor assume, redeem, secure or pay any indebtedness or pretended indebtedness alleged to be due by the State of Mississippi, to any person, association or corporation whatsoever, claiming the same as owners, holders or assignees of any bond or bonds, now generally known as "Union Bank" bonds and "Planters' Bank" bonds.

SEC. 259. No county seat shall be removed unless such removal be authorized by two-thirds of the electors of the county voting therefor; but when the proposed removal shall be towards the center of the county, it may be made when a majority of the electors participating in the election shall vote therefor.

SEC. 260. No new county shall be formed unless a majority of the qualified electors voting in each part of the county or counties proposed to be dismembered and embraced in the new county, shall separately vote therefor; nor shall the boundary of any judicial district in a county be changed unless at an election held for that purpose, two-thirds of those voting assent thereto. The elections provided for in this and the section next preceding shall not be held in any county oftener than once in four years. No new county shall contain less than four hundred square miles; nor shall any existing county be reduced below that size.

SEC. 261. The expenses of criminal prosecutions, except those before justices of the peace, shall be borne by the county in which such prosecutions shall be begun; and all net fines and forfeitures shall be paid into the treasury of such county. Defendants in cases of conviction may be taxed with the costs.

SEC. 262. The board of supervisors shall have power to provide homes or farms as asylums for those persons, who, by reason of age, infirmity, or misfortune, may have claims upon the sympathy and aid of society; and the legislature shall enact suitable laws to prevent abuses by those having the care of such persons.

SEC. 263. The marriage of a white person with a negro or mulatto, or person who shall have one-eighth or more of negro blood, shall be unlawful and void.

SEC. 264. No person shall be a grand or petit juror unless a qualified elector and able to read and write; but the want of any such qualification in any juror shall not vitiate any indictment or verdict. The legislature shall provide by law for procuring a list of persons so qualified, and the drawing therefrom of grand and petit jurors for each term of the circuit court.

SEC. 265. No person who denies the existence of a Supreme Being shall hold any office in this State.

SEC. 266. No person holding or exercising the rights or powers of any office of honor or profit, either in his own right, or as a deputy, or while otherwise acting for or in the name, or by the authority of another, under any foreign government, or under the government of the United States, shall hold or exercise in any way the rights and powers of any office of honor or profit under the laws or authority of this State, except notaries, commissioners of deeds, and United States commissioners.

SEC. 267. No person elected or appointed to any office or employment of profit under the laws of this State, or by virtue of any ordinance of any municipality of this State, shall hold such office or employment without personally devoting his time to the performance of the duties thereof.

SEC. 268. All officers elected or appointed to any office in this State, except judges and members of the legislature, shall, before entering upon the discharge of the duties thereof, take and subscribe the following oath:

“I \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully support the constitution of the United States, and the constitution of the State of Mississippi, and obey the laws thereof; that I am not disqualified from holding the office of \_\_\_\_\_; that I will faithfully discharge the duties of the office upon which I am about to enter. So help me God.”

SEC. 269. Every devise or bequest of lands, tenements or hereditaments, or any interest therein, of freehold, or less than freehold, either present or future, vested or contingent, or of any money directed to be raised by the sale thereof, contained in any last will and testament, or codicil, or other testamentary writing, in favor of any religious or ecclesiastical corporation, sole or aggregate, or any religious or ecclesiastical society, or to any religious denomination, or association of persons, or to any person or body politic, in trust, either expressed or implied, secret or resulting, either for the use and benefit of such religious corporation, society, denomination or association, or for the purpose of being given or appropriated to charitable uses or purposes, shall be null and void, and the heir-at-law shall take the same property so devised or bequeathed, as though no testamentary disposition had been made.

SEC. 270. Every legacy, gift or bequest, of money or personal property, or of any interest, benefit or use therein, either direct, implied or otherwise, contained in any last will and testament or codicil, in favor of any religious or ecclesiastical corporation, sole or aggregate, or any religious or ecclesiastical society, or to any religious denomination or association, either for its own use or benefit, or for the purpose of being given or appropriated to charitable uses, shall be null and void, and the distributees shall take the same as though no such testamentary disposition had been made.

SEC. 271. The legislature may provide for the consolidation of existing counties, if a majority of the qualified electors of such counties voting at an election held for that purpose, shall vote therefor.

SEC. 272. The legislature shall provide by law, pensions for indigent soldiers and sailors who enlisted and honorably served in the Confederate army or navy in the late civil war, who are now resident in this State, and are not able to earn a support by their own labor. Pensions shall also be allowed to the indigent widows of such soldiers or sailors now dead, when from age or disease, they cannot earn a support. Pensions shall also be allowed to the wives of such soldiers or sailors upon the death of the husband, if disabled and indigent as aforesaid. Pensions granted to widows shall cease upon their subsequent marriage.

## ARTICLE 15

### AMENDMENTS TO THE CONSTITUTION

SEC. 273. Whenever two-thirds of each house of the legislature shall deem any change, alteration, or amendment necessary to this constitution, such proposed change, alteration or amendment shall be read and passed by a two-third's vote of each house respectively, on each day, for three several days; public notice shall then be given by the secretary of state, at least three months preceding an election, at which the qualified electors shall vote directly for or against such change, alteration or amendment; and if more than one amendment shall be submitted at one time, they shall be submitted in such manner and form that the people may vote for or against each amendment separately; and if it shall appear that a majority of the qualified electors voting, shall have voted for the proposed change, alteration or amendment, then it shall be inserted by the next succeeding legislature as a part of this constitution, and not otherwise.

## SCHEDULE

That no inconvenience may arise from the changes in the Constitution of this State, and in order to carry the new Constitution into complete operation, it is hereby declared that—

SEC. 274. The laws of this State now in force, not repugnant to this constitution, shall remain in force until amended or repealed by the legislature or until they expire by limitation. All statute laws of this State repugnant to the provisions of this constitution, except as provided in the next three sections, shall continue and remain in force until the first day of April, A. D., 1892, unless sooner repealed by the legislature.

SEC. 275. All laws of this State which are repugnant to the following portions of this constitution, shall be repealed by the adoption of this constitution, to-wit: laws repugnant to:

(a) All the ordinances of this convention.

(b) The provisions of section 183, prohibiting counties, cities and towns from voting subscriptions to railroad and other corporations or associations.

(c) The provisions of sections 223 to 226, inclusive, of Article 10, prohibiting the leasing of penitentiary convicts.



SEC. 276. All laws of the State which are repugnant to the provisions of sections 240 to 253, inclusive, of Article 12, on the subject of franchise and elections, shall be and remain in force until the first day of January, A. D., 1891, and no longer.

SEC. 277. All laws of this State which are repugnant to the provisions of Article 13, sections 254 to 256, inclusive, on the subject of the apportionment of representatives and senators in the legislature, shall be and remain in force until the first day of October, A. D., 1891, but no longer.

SEC. 278. The governor shall as soon as practicable, appoint three suitable persons learned in the law, as commissioners whose duty it shall be to prepare and draft such general laws as are contemplated in this constitution and such other laws as shall be necessary and proper to put into operation the provisions thereof, and as may be appropriate to conform the general statutes of the State to the constitution. Said commissioners shall present the same when prepared to the legislature at its next regular session. And the legislature shall provide reasonable compensation therefor.

SEC. 279. All writs, actions, causes of action, proceedings, prosecutions and rights of individuals and bodies corporate and of the State, and charters of incorporation, shall continue; and all indictments which shall have been found or which shall hereafter be found, and all prosecutions begun, or that may be begun, for any crime or offense committed before the adoption of this constitution may be proceeded with and upon as if no change had taken place.

SEC. 280. For the trial and determination of all suits, civil and criminal, begun before the adoption of this constitution, the several courts of this State shall continue to exercise in said suits the powers and jurisdictions heretofore exercised by them; for all other matters said courts are continued as organized courts under this constitution, with such powers and jurisdiction as is herein conferred on them respectively.

SEC. 281. All fines, penalties, forfeitures and escheats accruing to the State of Mississippi under the constitution and laws heretofore in force shall accrue to the use of the State of Mississippi under this constitution, except as herein otherwise provided.

SEC. 282. All recognizances, bonds, obligations, and all other instruments entered into, or executed, before the adoption of this constitution, to the State of Mississippi, or to any State, county, public or municipal officer or body, shall remain binding and valid, and the rights and liabilities upon the same shall be continued and may be prosecuted as provided by law.

SEC. 283. All crimes and misdemeanors, and penal actions shall be tried, prosecuted and punished as though no change had taken place, until otherwise provided by law.

SEC. 284. All officers, State, district, county and municipal, now in office in this State, shall be entitled to hold the respective offices now held by them, except as otherwise herein provided, and until the expiration of the time for which they were respectively elected or appointed; and shall receive the compensation and fees now fixed by the statute laws in force when this constitution is adopted.

SEC. 285. The adoption of this constitution shall not have the effect, nor shall it be construed, to revive or put in force any law heretofore abrogated or repealed.

This Constitution, adopted by the people of Mississippi in convention assembled, shall be in force and effect from and after this, the first day of November, A. D., 1890.

S. S. CALHOON,  
*President and Delegate from Hinds county.*

ATTEST:

R. E. WILSON,  
*Secretary.*

E. L. MARTIN,  
*Ass't Sec'y and Recording Clerk.*

H. DENIO,  
*Ass't Sec'y and Journal Clerk.*

W. H. MADDEN,  
*Ass't Sec'y, and Engrossing and Enrolling Clerk.*

### ORDINANCES

#### Election Ordinances

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. All ballots in all elections held in this State shall be printed and distributed at public expense, as hereinafter provided, and shall be known as "official ballots." The expense of printing all such ballots shall be paid out of the respective county treasuries, except that in municipal elections such expenses shall be paid by the respective cities or towns.

SEC. 2. The ballots printed for use under this ordinance shall contain the names of all the candidates who have been put in nomination not less than fifteen days previous to the day of election, by any convention, or other nominating body, or at a primary election of any political party in this State. It shall be the duty of one of the commissioners of election, designated for that purpose in his commission by the authority appointing said commissioner, to have printed all necessary ballots for use in said elections, except ballots in municipal elections, which shall be printed as herein provided by the authorities of the respective municipalities; and said officer shall cause to be printed by a printer, sworn to keep secret said ballots under penalties to be prescribed by law, the names of all candidates so nominated, upon the written request of any one or more of the candidates so nominated, or of any qualified elector who will affirm that he was a member of such convention or other nominating body, or participant in such primary election, and that the name presented by him was the nominee of said convention or nominating body, or primary election. Said commissioner shall also cause to be printed on said ballots the name of any qualified elector who has been requested to be a candidate for any office by a written petition signed by at least fifteen qualified electors, for any beat office or municipal office in any town of less than two hundred inhabitants, or fifty qualified electors for any other office, and when said petition or request has been presented to said commissioner not less than fifteen days before the election; but if any qualified elector has been nominated as aforesaid or has been requested to be a candidate as above specified less than fifteen

days before any election, then the name of such candidates shall not be printed upon said ballots. There shall be on said ballots one blank space under the title of each office to be voted for and in the event of the death of any candidate whose name shall have been printed, on the official ballot, the name of the candidate duly substituted in place of such deceased candidate may be written in such blank space by the voter.

SEC. 3. After the proper officer has been notified of the nomination, as hereinbefore specified, of any candidate for office, said officer shall not omit the name from the ballot unless upon the written request of the candidate so nominated made at least ten days before the election.

SEC. 4. Every ballot printed by virtue of this ordinance shall contain the names of all candidates nominated as hereinbefore specified and not duly withdrawn. The arrangement of the names of all of the candidates and the order in which the titles of the various officers to be voted for shall be made, and the size, print and quality of the official ballot, is left to the sound judgment of the officer charged with printing said ballots; but the arrangement need not be uniform. It shall be the duty of the secretary of state, with the approval of the governor, to furnish the commissioners of the several counties a sample of an official ballot, the general form of which shall be followed as nearly as practicable. Whenever the question of a constitutional amendment or other question or matter, admitting of an affirmative or negative vote, is submitted to a vote of the electors, such amendment, question or matter shall be printed on said official ballot, together with the names of the candidates, if any, and also the words yea and nay, to be arranged by the proper officer so that the voter can intelligently vote his preference by making a cross-mark (x) opposite the word indicating his preference; immediately following the title of each office shall be printed the words "Vote for one," or "Vote for two," or more according to the number to be elected. On the back, and outside of the ballot shall be printed "official ballot," the name of the voting precinct or place for which said ballot is prepared and the date of the election.

SEC. 5. All official ballots intended for use at any voting precinct or place of voting shall be fastened together in convenient numbers and in some secure manner, but in such way that such ballots may be detached for use. A record of the number of official ballots printed and furnished to each voting precinct or place of voting, shall be kept and all such ballots accounted for by the officer or officers in each county charged with the printing of ballots.

SEC. 6. The officers charged with distributing or printing and distributing the official ballots, shall ascertain from the circuit clerk or other proper officer, at least ten days before the day of election, the number of registered voters in each election district, and shall also prepare full instructions for the guidance of electors at elections as to obtaining ballots, as to the manner of marking them, and as to obtaining new ballots in place of those accidentally spoiled, and such instructions shall be printed in large, clear type, on "cards of instruction," and said commissioners shall furnish the same in sufficient numbers for the use of electors, and said cards shall be preserved by all officers of elections as far as practicable, and returned by them to the commissioners of election and may be used, if applicable, in subsequent elections.

SEC. 7. The said commissioner of election shall appoint one or more deputy commissioners, from the respective election districts and deliver to them the proper number of ballots and cards of instruction, not less than one day before the election, and the deputy commissioners so selected to receive said ballots, shall be conservators of the peace and shall take an oath, to be administered by said commissioner, faithfully to perform their duties and not to attempt to guide, direct or influence any voter in the exercise of his right to vote.

SEC. 8. In case the official ballot prepared, shall be lost or destroyed, or in case of the death of any candidate whose name has been printed on the official ballot, the said commissioner, or his deputy shall have like ballots furnished in place of those lost or destroyed, if time remains therefor. If from any cause there should be no official ballot at a precinct and no sufficient time in which to have them printed, such ballots may be written, but if written by any one except the voter alone, for himself, the names of all candidates shall be written thereon without any special mark or device by which one name may be distinguished from another, and such tickets shall be marked by the voter as provided for printed ballots. Within three days after election day the inspectors shall report in writing to the commissioners of election, under oath, the loss of the official ballots, the number lost, and all facts connected therewith, which report the commissioners may deliver to the grand jury if deemed advisable.

SEC. 9. The deputy commissioners receiving the ballots from said commissioner shall distribute the same to the electors of the proper districts in the manner herein provided; and in case the said deputy commissioner shall fail to have said ballots at the election precincts at the proper time, or, if there, he shall fail to distribute the same, the inspectors of election, or those of them present at the election, shall provide said ballots and select some suitable person to distribute the same according to law, who shall take the oath required to be taken by the person to whom the said commissioner delivered said ballots, to be administered by any one of said inspectors.

SEC. 10. The sheriffs of the several counties in this State shall procure for their respective counties a sufficient number of voting compartments, shelves and tables for the use of electors, which shall be so arranged that it shall be impossible for one voter at one table, shelf or compartment to see another voter who is preparing his ballot. The number of such voting shelves, tables or compartments, shall not be less than one for every one hundred electors at each voting precinct. Each shelf, table and compartment, shall be furnished with a card of instruction posted in each compartment, and proper supplies for marking the ballots by electors.

SEC. 11. The deputy commissioners having the official ballots shall remain at a place convenient to the tables, shelves and compartments, for the distribution of ballots. When requested by each of the voters, the deputy commissioners aforesaid shall hand him an official ballot.

SEC. 12. On receiving his ballot the voter shall forthwith go into one of the voting compartments, and shall prepare his ballot by marking with ink in the appropriate margin or place, a cross (x) opposite the name of the candidate of his choice, for each office to be filled, or by filling in the name of the candidate substituted in the blank space as provided therefor, and marking a cross (x) opposite thereto, and likewise a cross (x) opposite the answer he desires

to give in case of an election on a constitutional amendment or other question or matter. Before leaving the voting shelf, table or compartment, the voter shall fold his ballot without displaying the marks thereon, but so that the words "official ballot," followed by the designation of the election precinct for which the ballot is prepared and the date of the election, shall be visible to the officers of the election. He shall then cast his ballot in the manner provided by law, which shall be done without undue delay, and the voter shall then quit the said inclosed place as soon as he has voted. No voter shall be allowed to occupy a voting shelf, table, or compartment already occupied by another voter, nor longer than ten minutes if other voters are not waiting, nor longer than five minutes in case other voters are waiting. No person shall be allowed in the room in which said ballot boxes or compartments, tables and shelves are, except the officers of election and the person distributing the ballots, and those appointed by the officers holding the election, to aid them therein.

SEC. 13. No person shall take or remove any ballot from a polling place before the close of the polls. If any voter spoils a ballot he may obtain others, one at a time, not exceeding three in all, upon returning each spoiled one.

SEC. 14. Any voter who declares to the person or persons having the official ballots that by reason of blindness or other physical disability he is unable to mark his ballot, shall upon request secure the assistance of said person or one of the election inspectors in the marking thereof, and such person or officer shall certify on the outside of said ballot that it was marked with his assistance and shall not otherwise give information in regard to the same.

SEC. 15. If the voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine from the ballot the voter's choice for any office voted for, his ballot so cast shall not be counted. No ballot not provided in accordance with this ordinance shall be deposited or counted.

SEC. 16. Any voter who shall, except as herein provided, allow his ballot to be seen by any person, or who shall make a false statement as to his inability to mark his ballot, or who shall place any mark upon his ballot by which it may be afterwards identified as the one voted by him, or any person who shall interfere or attempt to interfere with any voter when inside said inclosed space or when marking his ballot, or who shall endeavor to induce any voter before voting to show how he marks or has marked his ballot, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and the election officers shall cause any person so doing to be arrested and carried before the proper officer or tribunal for commitment and trial for such offense.

SEC. 17. Any commissioner of election, or any other officer or person acting as such or performing election duty, who shall wilfully or knowingly refuse or fail to perform the duties herein required of him, or who shall violate any provision of this ordinance, shall be guilty of a misdemeanor and be subject to a fine of not less than twenty-five nor more than one hundred dollars, or to imprisonment in the county jail not less than ten nor more than ninety days, or both, at the discretion of the court.

SEC. 18. The legislature shall have power to enact laws on the subjects of this ordinance, necessary for its efficiency, and not inconsistent



with its true intent and meaning. After January 1st, 1896, this ordinance may be repealed or amended by the legislature; but shall not be amended so as to conflict with any provisions of this constitution. All laws and parts of laws in conflict with any of the provisions of this ordinance are hereby annulled, and this ordinance shall take effect and be in force from and after the first day of January, A. D., 1891.

SEC. 19. The boards of supervisors of the several counties, and the municipal authorities of the cities and towns of the State, are authorized to allow reasonable compensation to officers for services under this ordinance.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

An Ordinance extending terms of State officers

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. The terms of the following State officers, to-wit: governor, lieutenant-governor, attorney-general, treasurer, auditor, secretary of state, superintendent of education and clerk of the supreme court, are hereby extended until the first Monday in January, 1896; and vacancies in the offices, the terms of which are hereby extended, shall be filled by appointment by the governor except as otherwise provided in this constitution.

SEC. 2. The persons whose terms of office are hereby extended shall be ineligible to immediately succeed themselves. And all bonded officers whose terms are hereby extended shall execute new official bonds on or before the date at which, but for this extension, their present terms of office would have expired; and in case of any failure to execute such bond the office shall thereby become vacant.

SEC. 3. A general election shall be held under this constitution on the first Tuesday after the first Monday in November, 1891, for three railroad commissioners and for members of the legislature, district attorneys, and county and county district officers, whose terms shall expire on the first Monday in January, A. D., 1896.

SEC. 4. There shall be a registration of the electors qualified under such provisions of this Constitution which are operative prior to the election in 1891, and such registration shall be made by the proper officers, and in the manner now prescribed by law when the same is not inconsistent with the provisions of the Constitution operative as aforesaid, and when repugnant, then according to the provisions thereof. The Board of Supervisors of the several counties shall provide proper registration books with the oath required by Section 242 of this Constitution.

An Ordinance making an appropriation to defray the expenses of the Convention

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. That there is hereby appropriated out of any moneys in the treasury not otherwise appropriated, a sum sufficient to defray

the expenses of the convention; and the auditor of public accounts is authorized to issue his warrants upon the treasurer, and the treasurer is authorized to pay the same for such sums as the Convention may direct and duly certify through its proper officers.

Adopted by the Convention October 4, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

An Ordinance to provide for raising money to defray the expenses of the Convention

*Be it ordained by the People of Mississippi in Convention assembled:*

SECTION 1. That the State Treasurer be authorized, with the consent and approval of the Governor, if it shall be deemed necessary, to negotiate a loan of not exceeding fifty thousand dollars, for a period of not more than four months, on such reasonable terms as the Governor shall approve, for the purpose of defraying the expenses of the Convention and for replacing moneys used for that purpose.

SEC. 2. That the faith of the State be pledged for the repayment of such loan; and the Treasurer is hereby authorized to hypothecate the \$46,000 of unsold bonds issued in pursuance of the act approved March 15, 1884, and to sell the same for the purpose of raising the money to pay such loans, if he and the Governor shall deem the same necessary or proper.

Adopted by the Convention October 8, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

#### Penitentiary Ordinance

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. With the view of enabling the legislature at its next session to have before it the necessary information upon which to act, if it should determine to establish a penitentiary farm, it is made the duty of the governor to appoint five commissioners, who shall, prior to the next session of the legislature, carefully inspect such bodies of land as may be thought suitable for such location; and who shall make report to the governor as to the several advantages of the bodies of land inspected by them and as to the propriety of establishing such farm or some other system, and as to the advantages of each, cost, and other proper matters, to be laid by the governor before the legislature with such recommendation as he may see proper to make.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

## Land Commissioner Ordinance

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. The legislature at its next regular session shall provide for the election of a land commissioner at the general election to be held in 1895 whose term of office shall be four years, and whose only compensation shall be a salary to be fixed by law. He shall have charge of the swamp and overflowed lands, the internal improvement lands, the records of the office of surveyor-general turned over by the United States to this State, the Chickasaw school lands, the sixteenth section and indemnity lands for the sixteenth section outside of the Chickasaw cession, the lands forfeited for non-payment of taxes after the time allowed for exemption shall have expired, and of all other public lands and land records in this State not otherwise provided for. The legislature shall enact such other laws as shall be necessary to fully carry this ordinance into effect; and shall have power to abolish said office when the interests of the State demand it, or may add to any of the duties assigned to such officer.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

## Swamp Land Ordinance

*Be it ordained by the people of Mississippi in Convention assembled—*

WHEREAS, Doubts have arisen as to the title of original purchasers of certain swamp and overflowed lands by reason of the entry of said lands with the land scrip of counties other than the county in which said lands were situated; and

WHEREAS, By act of the legislature of the State of Mississippi approved February 17, 1890, "all persons now holding swamp lands under such invalid purchase shall have the right to purchase the same for a period of two years at the uniform price of 12½ cents per acre" upon the terms required by said act; therefore

SECTION 1. Be it ordained that the State of Mississippi hereby waives the payment of said sum named in said act, and disclaims any interest or title in and to the said lands on account of erroneous locations thereof.

Adopted by the Convention November 1st, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

## Levee Ordinances

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. For the purpose of raising the money necessary to repair, elevate, strengthen and complete the levees along the Mississippi river, within the Mississippi Levee District, composed of the counties of Bolivar, Washington, Issaquena and Sharkey, and a part

of Warren county, the board of Mississippi levee commissioners are hereby authorized to issue lithographed or engraved bonds to the amount of five hundred thousand dollars, in such form, bearing such rate of interest and payable at such time, as it may determine, with coupons for interest attached, and to dispose of the same from time to time as may be necessary; but such bonds shall not run for a longer time than fifty years, nor bear a rate of interest exceeding six per centum per annum, payable semi-annually in the city of New York. The signatures to the said coupons may be lithographed, but all such bonds so issued shall be signed by the president of said board, countersigned by its treasurer with the corporate seal of the board attached, numbered consecutively, and registered in a book to be kept for that purpose.

SEC. 2. The corporate organization of the board of Mississippi levee commissioners, and the tax herein directed to be levied, together with the taxes heretofore levied or authorized by the legislature for levee purposes, shall be continued to the extent and according to the terms of the several laws levying or authorizing said taxes until all the bonds issued by virtue of and under the authority contained in the preceding section of this ordinance are paid off and discharged; and said taxes are pledged for the payment thereof and of the coupons of interest thereto attached, subject however to the provisions of this Constitution.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

An Ordinance to provide for representation of Pearl River county in the legislature in the event of a called session thereof

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. That in case the governor shall convene the legislature in extraordinary session before the next general election to be held under this constitution, the board of supervisors of Pearl River county shall order an election therein for a member of the house of representatives, to be held not less than ten days before the assembling of the legislature, and under the rules and regulations now prescribed by law for holding such elections; and said county shall be entitled to one representative in the lower house of the legislature in such extraordinary session, if called.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

An Ordinance assigning the county of Pearl River of the Sixth Congressional District

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. That the county of Pearl River as created by the act approved February 22, 1890, be and the same is hereby attached to and shall become a part of the Sixth Congressional District of this

State, until otherwise provided by law; and that the qualified electors of said county be, and they are hereby authorized and empowered to vote at the next ensuing election for members of Congress from the said Sixth District, at the same time and in the same manner, as other qualified electors in the other counties now attached to, and composing the Sixth District.

Adopted by the Convention August 21, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

An Ordinance to legalize the assessment in Pearl River county, during the year 1890, and to authorize a new assessment of lands therein during the year 1891

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. That the board of supervisors of Pearl River county shall hold a meeting at the court-house of said county on the first Monday in January, 1891, for the purpose of hearing complaints against the assessment of real estate of said county; and all persons having cause of complaint against said assessment, are required to present the same on or before said day, after being considered as above provided, and all complaints passed on, and said assessment being then approved shall be binding and conclusive.

SEC. 2. That the board of supervisors of Pearl River county is authorized, in its discretion, to have made an assessment of the lands of said county during the year 1891 in the same manner in all respects as is provided by law for a general assessment of lands; which assessment when so made, and approved by the board of supervisors, shall have the same force and effect as though made at the time fixed by law for the assessment of lands.

Adopted by the Convention November 1, 1890.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.

#### Exemption Ordinance

*Be it ordained by the people of Mississippi in Convention assembled—*

SECTION 1. That all permanent factories hereafter established in this State while this section is in force, for working cotton, wool, silk, furs or metals, and all others manufacturing implements or articles of use in a finished state, shall be exempt from taxation for a period of ten years. Any factory which has been abandoned for not less than three years, and commencing operations within two years from the date of the adoption of this constitution, shall be entitled to such exemption. This section may be repealed or amended by the legislature after five years, and if not so repealed, shall remain in force until January 1st, 1900, and no longer.

S. S. CALHOON, *President*.

Attest:

R. E. WILSON, *Secretary*.





# MISSOURI

For organic acts issued before 1812 relating to the land now included within Missouri see in this work :

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).

District of Louisiana, 1804 (Louisiana, p. 1364).

Territory of Louisiana, 1805 (Louisiana, p. 1371).

## TERRITORIAL GOVERNMENT OF MISSOURI—1812<sup>a</sup>

[TWELFTH CONGRESS, FIRST SESSION]

An Act providing for the government of the Territory of Missouri

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Territory heretofore called Louisiana shall hereafter be called Missouri, and that the temporary government of the Territory of Missouri shall be organized and administered in the manner hereinafter described.

SEC. 2. *And be it further enacted,* That the executive power shall be vested in a governor, who shall reside in the said Territory; he shall hold his office during the term of three years, unless sooner removed by the President of the United States; shall be commander-in-chief of the militia of the said Territory; shall have power to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, which shall be established by law; shall take care that the laws be faithfully executed; shall have power to grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; shall have power on extraordinary occasions to convene the general assembly, and he shall ex officio be superintendent of Indian affairs.

SEC. 3. *And be it further enacted,* That there shall be a secretary, whose commission shall continue in force for four years, unless sooner revoked by the President of the United States; he shall reside in the said Territory; it shall be his duty, under the direction of the governor, to record and preserve all the proceedings and papers of the executive and all the acts of the general assembly, and to transmit authentic copies of the same every six months to the President of the United States. In case of a vacancy of the office of governor, the government of the said Territory shall be executed by the secretary.

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<sup>a</sup> For other statutes of an organic nature relating to Missouri subsequent to 1812 see an act to appoint additional judge and regulate court rules, act of January 27, 1814; to extend western boundary of the state, June 7, 1836; to provide for the execution of the laws of the United States in, March 16, 1822.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in a general assembly, which shall consist of the governor, a legislative council, and a house of representatives. The general assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said Territory, not repugnant to or inconsistent with the Constitution and laws of the United States, and shall have power to establish inferior courts and to prescribe their jurisdiction and duties, to define the powers and duties of justices of the peace and other civil offices in the said Territory, and to regulate and fix the fees of office and to ascertain and provide for payment of the same, and for all other services rendered to the said Territory under the authority thereof. All bills having passed by a majority in the house of representatives and by a majority in the legislative council shall be referred to the governor for his assent, but no bill or legislative act whatever shall be of any force without his approbation.

SEC. 5. *And be it further enacted*, That the legislative council shall consist of nine members, to continue in office five years, unless sooner removed by the President of the United States; any five of them shall be a quorum. The members of the legislative council shall be nominated and appointed in the manner following: As soon as representatives shall be elected, they shall be convened by the governor as hereafter prescribed, and, when met, shall nominate eighteen persons, residents in the said Territory one year preceding their nomination, holding no office of profit under the Territory or the United States, the office of justice of the peace excepted, and each possessing in his own right two hundred acres of land therein, and return the names to the President of the United States, nine of whom the President, by and with the advice and consent of the Senate, shall appoint and commission to serve as aforesaid; and when a vacancy shall happen in the legislative council, by death or removal from office, the house of representatives shall nominate two persons qualified as aforesaid for such vacancy, and return their names to the President of the United States, one of whom he, by and with the advice and consent of the Senate, shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the term of service of the members of the legislative council, the house of representatives shall nominate eighteen persons, qualified as aforesaid, and return their names to the President of the United States, nine of whom shall be appointed and commissioned as aforesaid, to serve as members of the legislative council five years, if not sooner removed. No person shall be a member of the legislative council who hath not attained to the age of twenty-five years.

SEC. 6. *And be it further enacted*, That the house of representatives shall be composed of members elected every second year by the people of the said Territory, to serve for two years. For every five hundred free white male inhabitants there shall be one representative, and so on, progressively, with the number of free white male inhabitants shall the right of representation increase, until the number of the representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the general assembly. No person shall be eligible or qualified to be a representative who shall not have attained to the age of twenty-one years,

and who shall not have resided in the Territory one year next preceding the day of election, and who shall not be a freeholder within the county in which he may be elected, and no person holding any office under the United States, or any office of profit under the Territory, shall be a representative. In case of vacancy, by death, resignation, removal, or otherwise, of a representative, the governor shall issue a writ to the county, whenever a vacancy may be as aforesaid, to elect another person to serve the residue of the term. That all free white male citizens of the United States, above the age of twenty-one years, who have resided in said Territory twelve months next preceding an election, and who shall have paid a territorial or county tax, assessed at least six months previous thereto, shall be entitled to vote for representatives to the general assembly of said Territory.

SEC. 7. *And be it further enacted*, That, in order to carry the same into operation, the governor of the said Territory shall cause to be elected thirteen representatives, and for that purpose shall proceed, as circumstances may require, to lay off the parts of the said Territory to which the Indian title hath been extinguished, into convenient counties, on or before the first Monday in October next, and give notice thereof throughout the same, and shall appoint the most convenient time and place within each of the said counties for holding the elections, and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who shall have been elected. All subsequent elections shall be regulated by the general assembly, and the number of representatives shall be determined, and the apportionment made, in the manner hereinbefore prescribed.

SEC. 8. *And be it further enacted*, That the representatives, elected as aforesaid, shall be convened, by the governor, in the town of Saint Louis, on the first Monday in December next, and the first general assembly shall be convened by the governor, as soon as may be convenient, at Saint Louis, after the members of the legislative council shall be appointed and commissioned. The general assembly shall meet once in each year at Saint Louis, and such meeting shall be on the first Monday in December annually, unless they shall by law appoint a different day. The legislative council and house of representatives, when assembled, shall each choose a speaker and its other officers, and determine the rules of its proceedings. Each house shall sit on its own adjournments from day to day. Neither house shall, during the session, without consent of the other, adjourn for more than two days, nor to any other place than that where the two houses shall be sitting. The members of the general assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at their respective houses, and in going to and returning from the same, and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 9. *And be it further enacted*, That all and every free white male person, who, on the twentieth day of December, in the year one thousand eight hundred and three, was an inhabitant of the Territory of Louisiana, and all free white male citizens of the United States who, since the said twentieth day of December, in the year one thousand eight hundred and three, emigrated, or who hereafter

may emigrate, to the said Territory, being otherwise qualified according to the provisions of this act, shall be capable to hold any office of honor, trust, or profit in the said Territory, under the United States, or under the said Territory; and to vote for members of the general assembly and a Delegate to Congress during the temporary government provided for by this act.

SEC. 10. *And be it further enacted*, That the judicial power shall be vested in a superior court, and in inferior courts and justices of the peace. The judges of the superior court and justices of the peace shall hold their offices for the term of four years, unless sooner removed; the superior court shall consist of three judges, who shall reside in the said Territory, any two of whom shall constitute a court; the superior court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those that are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars; the said judges shall hold their courts at such times and places as shall be prescribed by the general assembly. The sessions of the superior and inferior courts shall continue until all the business depending shall be disposed of, or for such as shall be prescribed by the general assembly. The superior and inferior courts shall respectively appoint their clerks, who shall be commissioned by the governor, and shall hold their offices during the temporary government of the said Territory, unless sooner removed by the court.

SEC. 11. *And be it further enacted*, That all free male white persons of the age of twenty-one years, who shall have resided one year in the said Territory, and are not disqualified by any legal proceeding, shall be qualified to serve as grand or petit jurors in the courts of the said Territory; and they shall, until the general assembly thereof shall otherwise direct, be selected in such manner as the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and least burdensome to the inhabitants of the said Territory.

SEC. 12. *And be it further enacted*, That the governor, secretary, and judges, for the Territory of Missouri, authorized by this act, and all general officers of the militia, during the temporary government thereof, shall be appointed and commissioned by the President of the United States, by and with the advice and consent of the senate; and the governor, secretary, and judges shall respectively receive for their services the compensations established by law, to be paid quarterly out of the Treasury of the United States; the governor, secretary, judges, members of the legislative council, members of the house of representatives, justices of the peace, and all other officers, civil and military, before they enter on the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the governor, before a judge of the supreme or a district court of the United States, or a judge of the said Territory; the secretary and judges, before the governor; the members of the legislative council and house of representatives, before a judge of the said Territory; and the justices of the peace and all other officers before such person as the governor shall appoint and direct.

SEC. 13. *And be it further enacted*, That the citizens of the said Territory entitled to vote for representatives to the general assembly



thereof, shall, at the time of electing their representatives to the said general assembly, also elect one Delegate from the said Territory to the Congress of the United States; and the Delegate so elected shall possess the same powers, shall have the same privileges and compensation for his attendance in Congress, and for going to and returning from the same, as heretofore have been granted to and provided for a Delegate from any Territory of the United States.

SEC. 14. *And be it further enacted*, That the people of the said Territory shall always be entitled to a proportionate representation in the general assembly; to judicial proceedings according to the common law and the laws and usages in force in the said Territory; to the benefit of the writ of habeas corpus. In all criminal cases the trial shall be by jury of good and lawful men of the vicinage. All persons shall be bailable, unless for capital offences where the proof shall be evident or the presumption great. All fines shall be moderate, and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land. If the public exigencies make it necessary for the common preservation to take the property of any person, or to demand his particular services, full compensation shall be made for the same. No ex post facto law, or law impairing the obligation of contracts, shall be made. No law shall be made which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or mode of worship, in all which he shall be free to maintain his own, and not burthened for those of another. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged and provided for from the public lands of the United States in the said Territory, in such manner as Congress may deem expedient.

SEC. 15. *And be it further enacted*, That the general assembly shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulation Congress may find necessary to make for securing the title in the bona-fide purchasers. No tax shall ever be imposed on lands the property of the United States. The lands of non-resident proprietors shall never be taxed higher than those of residents. The Mississippi and Missouri Rivers, and the navigable waters flowing into them, and the carrying-places between the same, shall be common highways and forever free to the people of said Territory, and to the citizens of the United States, without any tax, duty, or impost therefor.

SEC. 16. *And be it further enacted*, That the laws and regulations in force in the Territory of Louisiana, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the general assembly. And it is hereby declared that this act shall not be construed to vacate the commission of any officer in the said Territory, acting under the authority of the United States, but that every such commission shall be and continue in full force as if this act had not been made. And so much of an act entitled "An act further providing for the government of the Territory of Louisiana," approved on the third day of March, one thousand eight hundred and five, and so much of an act entitled "An act for erecting Louisiana into two Territories and pro-

viding for the temporary government thereof," approved the twenty-sixth of March, one thousand eight hundred and four, as is repugnant to this act, shall, from and after the first Monday in December next, be repealed. On which first Monday in December next this act shall commence and have full force: *Provided*, So much of it as requires the governor of said Territory to perform certain duties, previous to the said first Monday in December next, shall be in force from the passage thereof.

Approved, June 4, 1812.

## TERRITORIAL GOVERNMENT OF MISSOURI—1816

[FOURTEENTH CONGRESS, FIRST SESSION]

An Act to alter certain parts of the act providing for the government of the Territory of Missouri

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the electors of the Territory of Missouri, entitled to vote for members of the house of representatives of the Territory, at the time of electing the representatives to the general assembly, shall in each county in said Territory elect one member of the legislative council to serve for two years and no longer, qualified according to the provisions of the fifth section of the act providing for the government of the Territory of Missouri, passed June fourth, one thousand eight hundred and twelve, a majority of whom shall be a quorum, and shall possess the same powers as are granted to the legislative council by the said recited act; and in case of vacancy of a member of the legislative council, by resignation or otherwise, the governor of the Territory shall issue a writ to the county to elect another person to serve the residue of the term.

SEC. 2. *And be it further enacted*, That so much of the eighth section of the said recited act as requires the general assembly of said Territory to meet once in each year be repealed, and the said general assembly shall meet once in every other year at Saint Louis, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day: *Provided*, That the governor for the time being shall have authority by proclamation to convene the general assembly whenever he shall deem the interest of the Territory may require it.

SEC. 3. *And be it further enacted*, That the general assembly of the said Territory shall be, and are hereby, authorized to require the judges of the superior court of the said Territory to hold superior and circuit courts, to appoint the times and places of holding the same, and under such rules and regulations as the general assembly may in that behalf prescribe; the circuit courts shall be composed of one of the said judges, and shall have jurisdiction in all criminal cases, and exclusive original jurisdiction in all those which are capital, and original jurisdiction in all civil cases of the value of one hundred dollars, and the superior and circuit courts shall possess and exercise chancery powers as well as common-law jurisdiction in all civil cases: *Provided*, That there shall be an appeal in matters of law and equity,

in all cases, from the circuit courts to the superior court of the said Territory.

SEC. 4. *And be it further enacted,* That such part of the said recited acts as is repugnant to, or inconsistent with, the provisions of this act, be, and the same is hereby, repealed.

Approved, April 29, 1816.

## ENABLING ACT FOR MISSOURI—1820

[SIXTEENTH CONGRESS, FIRST SESSION]

An Act to authorize the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of that portion of the Missouri Territory included within the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted,* That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning in the middle of the Mississippi River, on the parallel of thirty-six degrees of north latitude; thence west along that parallel of latitude to the Saint François River; thence up, and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence west, along the same, to a point where the said parallel is intersected by a meridian-line passing through the middle of the mouth of the Kansas River, where the same empties into the Missouri River; thence from the point aforesaid north, along the said meridian-line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to correspond with the Indian boundary-line; thence east, from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down and along the middle of the main channel of the said river Des Moines to the mouth of the same, where it empties into the Mississippi River; thence due east to the middle of the main channel of Mississippi River; thence down, and following the course of the Mississippi River, in the middle of the main channel thereof, to the place of beginning: *Provided,* The State shall ratify the boundaries aforesaid: *And provided also,* That the said State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said rivers shall form a common boundary to the said State and any other State or States, now or hereafter to be formed and bounded by the same, such rivers to be common to both; and that the river Mississippi, and the navigable rivers and waters leading into the same, shall be common highways,

and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor imposed by the said State.

SEC. 3. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all other persons qualified to vote for representatives to the general assembly of the said Territory, shall be qualified to be elected, and they are hereby qualified and authorized to vote and choose representatives to form a convention, who shall be apportioned amongst the several counties as follows:

From the county of Howard, five representatives.

From the county of Cooper, three representatives.

From the county of Montgomery, two representatives.

From the county of Pike, one representative.

From the county of Lincoln, one representative.

From the county of Saint Charles, three representatives.

From the county of Franklin, one representative.

From the county of Saint Louis, eight representatives.

From the county of Jefferson, one representative.

From the county of Washington, three representatives.

From the county of Saint Genevieve, four representatives.

From the county of Madison, one representative.

From the county of Cape Girardeau, five representatives.

From the county of New Madrid, two representatives.

From the county of Wayne, and that portion of the county of Lawrence that falls within the boundaries herein designated, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and two succeeding days of May next, throughout the several counties aforesaid in the said Territory, and shall be in every respect held and conducted in the same manner and under the same regulations as is prescribed by the laws of the said Territory regulating elections therein for members of the general assembly, except that the returns of the election in that portion of Lawrence County included in the boundaries aforesaid shall be made to the county of Wayne, as is provided in other cases under the laws of said Territory.

SEC. 4. *And be it further enacted*, That the members of the convention thus duly elected shall be, and they are hereby, authorized to meet at the seat of government of said Territory, on the second Monday of the month of June next; and the said convention, when so assembled, shall have power and authority to adjourn to any other place in the said Territory, which to them shall seem best for the convenient transaction of their business; and which convention, when so met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory, as included within the boundaries above designated; and, if it be deemed expedient, the convention shall be, and hereby is, authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such

proportion, as they shall designate, and shall meet at such time and place as shall be prescribed by the said ordinance; and shall then form for the people of said Territory, within the boundaries aforesaid, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the Constitution of the United States; and that the legislature of said State shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona-fide purchasers; and that no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents.

SEC. 5. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Missouri, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

*First*. That section numbered sixteen in every township, and when such section has been sold, or otherwise disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township, for the use of schools.

*Second*. That all salt-springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State, for the use of said State, the same to be selected by the legislature of the said State, on or before the first day of January, in the year one thousand eight hundred and twenty-five, and the same, when so selected, to be used under such terms, conditions, and regulations as the legislature of said State shall direct: *Provided*, That no salt-spring, the right whereof now is, or hereafter shall be, confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided also*, That the legislature shall never sell or lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

*Third*. That five per cent. of the net proceeds of the sale of lands lying within the said Territory, or State, and which shall be sold by Congress, from and after the first day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the legislature thereof; and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

*Fourth*. That four entire sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon, which said sections shall, under the direction of the legislature of said State, be located, as near as may be, in one body, at any time, in such townships and ranges as the legislature aforesaid may select, on any of the public lands of the United States: *Provided*, That such locations shall be made prior to the public sale of the lands of the United States surrounding such location.



*Fifth.* That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of said State, to be appropriated solely for the use of such seminary by the said legislature: *Provided*, That the five foregoing propositions herein offered are on the condition that the convention of the said State shall provide, by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt as aforesaid from taxation for the term of three years from and after the date of the patents respectively.

SEC. 7. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of the said Territory of Missouri, the said convention or representatives, as soon thereafter as may be, shall cause a true and attested copy of such constitution, or frame of State government, as shall be formed or provided, to be transmitted to Congress.

SEC. 8. *And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided always*, That any person escaping into the same from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or services as aforesaid.

Approved, March 6, 1820.

## RESOLUTION FOR THE ADMISSION OF MISSOURI—1821

[SIXTEENTH CONGRESS, SECOND SESSION]

Resolution providing for the admission of the state of Missouri into the Union, on a certain condition

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled*, That Missouri shall be admitted into this union on an equal footing with the original states, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said state to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen, of either of the states in this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen

is entitled under the constitution of the United States: *Provided*, That the legislature of the said state, by a solemn public act, shall declare the assent of the said state to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said state into this Union shall be considered as complete.

Approved, March 2, 1821.

### PROCLAMATION ADMITTING MISSOURI—1821 <sup>a</sup>

BY THE PRESIDENT OF THE UNITED STATES

#### A PROCLAMATION

Whereas the Congress of the United States, by a joint resolution of the 2d day of March last, entitled "Resolution providing for the admission of the State of Missouri into the Union on a certain condition," did determine and declare that Missouri should be admitted into this Union on an equal footing with the original States in all respects whatever upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of said State, by a solemn public act shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States on or before the first Monday in November next an authentic copy of said act, upon the receipt whereof the President, by proclamation, shall announce the fact, whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete:" and

Whereas by solemn public act of the assembly of said State of Missouri, passed on the 26th of June, in the present year, entitled "A solemn public act declaring the assent of this State to the fundamental condition contained in a resolution passed by the Congress of the United States providing for the admission of the State of Missouri into the Union, on a certain condition," an authentic copy whereof has been communicated to me, it is solemnly and publicly enacted and declared that that State has assented, and does assent, that the fourth clause of the twenty-sixth section of the third article of the constitution of said State "shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the United States shall be excluded from the enjoyment of any of the privi-

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<sup>a</sup> *Messages and Papers of the Presidents*, James D. Richardson, II. 95-96.

leges and immunities to which such citizens are entitled under the Constitution of the United States:”

Now, therefore, I, James Monroe, President of the United States, in pursuance of the resolution of Congress aforesaid, have issued this my proclamation announcing the fact that the said State of Missouri has assented to the fundamental condition required by the resolution of Congress aforesaid, whereupon the admission of the said State of Missouri into this Union is declared to be complete.

In testimony whereof I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand.

Done at the city of Washington the 10th of August, A. D., 1821,  
(SEAL) and of the Independence of the said United States of America the forty-sixth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
*Secretary of State.*

### CONSTITUTION OF MISSOURI—1820 \* a

We, the people of Missouri, inhabiting the limits hereinafter designated, by our representatives in convention assembled at Saint Louis, on Monday, the 12th day of June, 1820, do mutually agree to form and establish a free and independent republic, by the name of the “State of Missouri,” and for the government thereof do ordain and establish this constitution:

#### ARTICLE I

##### OF BOUNDARIES

We do declare, establish, ratify, and confirm the following as the permanent boundaries of said State, that is to say: Beginning in the middle of the Mississippi River, on the parallel of thirty-six degrees of north latitude; thence west along the said parallel of latitude to Saint François River; thence up and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence west along the same to a point where the said parallel is intersected by a meridian-line passing through the middle of the mouth of the Kansas River, where the same empties into the Missouri River; thence from the point aforesaid north, along the said meridian-line, to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line correspond with the Indian boundary-line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down

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\* Verified from “The Constitution and Amendments in the Laws of Missouri, 1821–1864.”

a This constitution was framed by a convention which met at Saint Louis June 12, 1820, and completed its labors July 19, 1820.

and along the middle of the main channel of the said river Des Moines to the mouth of the same, where it empties into the Mississippi River; thence due east to the middle of the main channel of the Mississippi River; thence down and following the course of the Mississippi River, in the middle of the main channel thereof, to the place of beginning.

## ARTICLE II

### OF THE DISTRIBUTION OF POWERS

The powers of government shall be divided into three distinct departments, each of which shall be confided to a separate magistracy; and no person charged with the exercise of powers properly belonging to one of those departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

## ARTICLE III

### OF THE LEGISLATIVE POWER

SECTION 1. The legislative power shall be vested in a general assembly, which shall consist of a senate and of a house of representatives.

SEC. 2. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties. Each county shall have at least one representative; but the whole number of representatives shall never exceed one hundred.

SEC. 3. No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State two years, and of the county which he represents one year next before his election, if such county shall have been so long established; but if not, then of the county or counties from which the same shall have been taken; and who shall not, moreover, have paid a State or county tax.

SEC. 4. The general assembly at their first session, and in the years one thousand eight hundred and twenty-two and one thousand eight hundred and twenty-four, respectively, and every fourth year thereafter, shall cause an enumeration of the inhabitants of this State to be made; and at the first session after such enumeration shall apportion the number of representatives among the several counties, according to the number of free white male inhabitants therein.

SEC. 5. The senators shall be chosen by the qualified electors for the term of four years. No person shall be a senator who shall not have attained to the age of thirty years; who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this State four years, and of the district which he may be chosen to represent one year next before his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken; and who shall not, moreover, have paid a State or county tax.

SEC. 6. The senate shall consist of not less than fourteen nor more than thirty-three members; for the election of whom the State shall be divided into convenient districts, which may be altered from time to time, and new districts established, as public convenience may require, and the senators shall be apportioned among the several districts according to the number of free white male inhabitants in each: *Provided*, That when a senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a district.

SEC. 7. At the first session of the general assembly, the senators shall be divided by lot, as equally as may be, into two classes. The seats of the first class shall be vacated at the end of the second year, and the seats of the second class at the end of the fourth year; so that one-half of the senators shall be chosen every second year.

SEC. 8. After the first day of January, one thousand eight hundred and twenty-two, all general elections shall commence on the first Monday in August, and shall be held biennially; and the electors, in all cases, except of treason, felony, or breach of the peace, shall be privileged from arrest during their continuance at elections, and in going to and returning from the same.

SEC. 9. The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

SEC. 10. Every free white male citizen of the United States, who shall have attained the age of twenty-one years, and who shall have resided in this State one year before an election, the last three months whereof shall have been in the county or district in which he offers to vote, shall be deemed a qualified elector of all elective offices: *Provided*, That no soldier, seaman, or mariner in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

SEC. 11. No judge of any court of law or equity, secretary of state, attorney-general, State auditor, State or county treasurer, register, or recorder, clerk of any court of record, sheriff, coroner, member of Congress, nor other person holding any lucrative office under the United States or this State, militia officers, justices of the peace, and postmasters excepted, shall be eligible to either house of the general assembly.

SEC. 12. No person who now is or hereafter may be a collector or holder of public money, nor any assistant or deputy of such collector or holder of public money, shall be eligible to either house of the general assembly, nor to any office of profit or trust until he shall have accounted for and paid all sums for which he may be accountable.

SEC. 13. No person while he continues to exercise the functions of a bishop, priest, clergyman, or teacher of any religious persuasion, denomination, society, or sect whatsoever, shall be eligible to either house of the general assembly; nor shall he be appointed to any office of profit within the State, the office of justice of the peace excepted.

SEC. 14. The general assembly shall have power to exclude from every office of honor, trust, or profit, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

SEC. 15. Every person who shall be convicted of having, directly or indirectly, given or offered any bribe to procure his election or



appointment, shall be disqualified for any office of honor, trust, or profit under this State; and any person who shall give or offer any bribe to procure the election or appointment of any person, shall, on conviction thereof, be disqualified for an elector, or for any office of honor, trust, or profit under this State, for ten years after such conviction.

SEC. 16. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during his continuance in office, except to such offices as shall be filled by elections of the people.

SEC. 17. Each house shall appoint its own officers, and shall judge of the qualifications, elections, and returns of its own members. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

SEC. 18. Each house may determine the rules of its proceedings; punish its members for disorderly behavior; and, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause. They shall each, from time to time, publish a journal of their proceedings, except such parts as may, in their opinion, require secrecy; and the yeas and nays on any question shall be entered on the journal, at the desire of any two members.

SEC. 19. The doors of each house, and of committee of the whole, shall be kept open, except in cases which may require secrecy; and each house may punish, by fine or imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence, during their session: *Provided*, That such fine shall not exceed three hundred dollars, and such imprisonment shall not exceed forty-eight hours for one offence.

SEC. 20. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than to that in which the two houses may be sitting.

SEC. 21. Bills may originate in either house, and may be altered, amended, or rejected by the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is depending shall dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker of the house of representatives and by the president of the senate.

SEC. 22. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house of the general assembly, the votes shall be publicly given, *viva voce*, and entered on the journals. The whole list of members shall be called, and the names of absentees shall be noted and published with the journal.

SEC. 23. Senators and representatives shall, in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 24. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which may, from time to time, be increased or diminished by law; but no alteration, increasing or tending to increase the compensation of members, shall take effect during the session at which such alteration shall be made.

SEC. 25. The general assembly shall direct by law in what manner, and in what courts, suits may be brought against the State.

SEC. 26. The general assembly shall not have power to pass laws—

1. For the emancipation of slaves without the consent of their owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated; and,

2. To prevent *bona-fide* immigrants to this State, or actual settlers therein, from bringing from any of the United States, or from any of their Territories, such persons as may there be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this State.

They shall have power to pass laws—

1. To prohibit the introduction into this State of any slaves who may have committed any high crime in any other State or Territory;

2. To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandise;

3. To prohibit the introduction of any slave, or the offspring of any slave, who heretofore may have been, or who hereafter may be, imported from any foreign country into the United States, or any Territory thereof, in contravention of any existing statute of the United States; and,

4. To permit the owners of slaves to emancipate them, saving the right of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge.

It shall be their duty, as soon as may be, to pass such laws as may be necessary—

1. To prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever; and,

2. To oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb.

SEC. 27. In prosecutions for crimes, slaves shall not be deprived of an impartial trial by jury and a slave convicted of a capital offence shall suffer the same degree of punishment, and no other, that would be inflicted on a free white person for a like offence; and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

SEC. 28. Any person who shall maliciously deprive of life or dismember a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person.

SEC. 29. The governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and all judges of the courts of law and equity, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party impeached, whether convicted or acquitted, shall, nevertheless, be liable to be indicted, tried, and punished according to law.

SEC. 30. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the presiding judge of the supreme court shall preside; and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 31. A State treasurer shall be biennially appointed by joint vote of the two houses of the general assembly, who shall keep his office at the seat of government. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 32. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law; and all officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and of this State, and to demean themselves faithfully in office.

SEC. 33. The general assembly shall meet on the third Monday in September next; on the first Monday in November, eighteen hundred and twenty-one; on the first Monday in November, eighteen hundred and twenty-two, and thereafter the general assembly shall meet once in every two years, and such meeting shall be on the first Monday in November, unless a different day shall be appointed by law.

SEC. 34. No county now established by law shall ever be reduced, by the establishment of new counties, to less than twenty miles square; nor shall any county hereafter be established which shall contain less than four hundred square miles.

SEC. 35. Within five years after the adoption of this constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested, and promulgated, in such manner as the general assembly shall direct, and a like revision, digest, and promulgation shall be made at the expiration of every subsequent period of ten years.

SEC. 36. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Missouri.*"

#### ARTICLE IV

##### OF THE EXECUTIVE POWER

SECTION 1. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The governor of the State of Missouri."

SEC. 2. The governor shall be at least thirty-five years of age, and a natural-born citizen of the United States, or a citizen at the adoption of the Constitution of the United States, or an inhabitant of that part of Louisiana now included in the State of Missouri at the time of the cession thereof from France to the United States, and shall have been a resident of the same at least four years next before his election.

SEC. 3. The governor shall hold his office for four years, and until a successor be duly appointed and qualified. He shall be elected in the manner following: At the time and place of voting for members of the house of representatives, the qualified electors shall vote for a governor; and when two or more persons have an equal number of votes, and a higher number than any person, the election shall be decided between them by a joint vote of both houses of the general assembly, at their next session.

SEC. 4. The governor shall be ineligible for the next four years after the expiration of his term of service.

SEC. 5. The governor shall be commander-in-chief of the militia and navy of the State, except when they shall be called into the service of the United States; but he need not command in person, unless advised so to do by a resolution of the general assembly.

SEC. 6. The governor shall have power to remit fines and forfeitures; and, except in cases of impeachment, to grant reprieves and pardons.

SEC. 7. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation, and shall state to them the purposes for which they are convened.

SEC. 8. The governor shall take care that the laws be distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

SEC. 9. When any office shall become vacant, the governor shall appoint a person to fill such vacancy, who shall continue in office until a successor be duly appointed and qualified according to law.

SEC. 10. Every bill which shall have been passed by both houses of the general assembly shall, before it becomes a law, be presented to the governor for his approbation. If he approve, he shall sign it; if not, he shall return it, with his objections, to the house in which it shall have originated, and the house shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall be in like manner reconsidered, and if approved by a majority of all the members elected to that house, it shall become a law. In all such cases the votes of both houses shall be taken by yeas and nays; the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if the governor had signed it; unless the general assembly, by its adjournment, shall prevent its return, in which case it shall not become a law.

SEC. 11. Every resolution to which the concurrence of the senate and house of representatives may be necessary, except on cases of adjournment, shall be presented to the governor, and before the same shall take effect shall be proceeded upon in the same manner as in the case of a bill.

SEC. 12. There shall be an auditor of public accounts, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall continue in office four years, and shall perform such duties as may be prescribed by law. His office shall be kept at the seat of government.

SEC. 13. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law, which shall neither be increased nor diminished during his continuance in office, and which shall never be less than two thousand dollars annually.

SEC. 14. There shall be a lieutenant-governor, who shall be elected at the same time, in the same manner, for the same term, and shall possess the same qualifications as the governor. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be president of the senate. In committee of the whole, he may debate on all questions; and, when there is an equal division, he shall give the casting vote in senate, and also in joint votes of both houses.

SEC. 16. When the office of governor shall become vacant, by death, resignation, absence from the State, removal from office, refusal to qualify, impeachment, or otherwise, the lieutenant-governor, or, in case of like disability on his part, the president of the senate *pro tempore*, or, if there be no president of the senate *pro tempore*, the speaker of the house of representatives shall possess all the powers and discharge all the duties of governor, and shall receive for his services the like compensation, until such vacancy be filled, or the governor so absent or impeached shall return or be acquitted.

SEC. 17. Whenever the office of governor shall become vacant, by death, resignation, removal from office, or otherwise, the lieutenant-governor, or other person exercising the powers of governor for the time being, shall, as soon as may be, cause an election to be held to fill such vacancy, giving three months' previous notice thereof; and the person elected shall not thereby be rendered ineligible to the office of governor for the next succeeding term. Nevertheless, if such vacancy shall happen within eighteen months of the end of the term for which the late governor shall have been elected, the same shall not be filled.

SEC. 18. The lieutenant-governor, or president of the senate *pro tempore*, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 19. The returns of all elections of governor and lieutenant-governor shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 20. Contested elections of governor and lieutenant-governor shall be decided by joint vote of both houses of the general assembly, in such manner as may be prescribed by law.

SEC. 21. There shall be a secretary of state, whom the governor, by and with the advice and consent of the senate, shall appoint. He shall hold his office four years, unless sooner removed on impeachment. He shall keep a register of all the official acts and proceedings of the governor, and, when necessary, shall attest them; and he shall lay the same, together with all papers relative thereto, before either



house of the general assembly, whenever required so to do; and shall perform such other duties as may be enjoined on him by law.

SEC. 22. The secretary of state shall, as soon as may be, procure a seal of state, with such emblems and devices as shall be directed by law, which shall not be subject to change. It shall be called "The Great Seal of the State of Missouri;" shall be kept by the secretary of state; and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SEC. 23. There shall be appointed in each county a sheriff and a coroner, who, until the general assembly shall otherwise provide, shall be elected by the qualified electors, at the time and place of electing representatives. They shall serve for two years, and until a successor be duly appointed and qualified, unless sooner removed for misdemeanor in office, and shall be ineligible four years in any period of eight years. The sheriff and coroner shall each give security for the faithful discharge of the duties of his office in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and coroner therein, who shall each continue in office until the next succeeding general election, and until a successor shall be duly qualified.

SEC. 24. When vacancies happen in the office of sheriff or coroner, they shall be filled by appointment of the governor; and the persons so appointed shall continue in office until successors shall be duly qualified, and shall not be thereby rendered ineligible for the next succeeding term.

SEC. 25. In all elections of sheriff and coroner, when two or more persons have an equal number of votes, and a higher number than any other person, the circuit courts of the counties respectively shall give the casting vote; and all contested elections for the said offices shall be decided by the circuit courts respectively, in such manner as the general assembly may by law prescribe.

## ARTICLE V

### OF THE JUDICIAL POWER

SECTION 1. The judicial power, as to matters of law and equity, shall be vested in a supreme court, in a chancellor, in circuit courts, and in such inferior tribunals as the general assembly may from time to time ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The supreme court shall consist of three judges, any two of whom shall be a quorum; and the said judges shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided into convenient districts, not to exceed four; in each of which the supreme court shall hold two sessions annually, at such place as the general assembly shall appoint;

and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only: *Provided, however,* That the general assembly may, at any time hereafter, direct by law that the said court shall be held at one place only.

SEC. 6. The circuit court shall have jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction in all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly. It shall hold its terms in such place in each county as may be by law directed.

SEC. 7. The State shall be divided into convenient circuits, for each of which a judge shall be appointed, who, after his appointment, shall reside, and be a conservator of the peace, within the circuit for which he shall be appointed.

SEC. 8. The circuit court shall exercise a superintending control over all such inferior tribunals as the general assembly may establish, and over justices of the peace in each county in their respective circuits.

SEC. 9. The jurisdiction of the court of chancery shall be coextensive with the State, and the times and places of holding its sessions shall be regulated in the same manner as those of the supreme court.

SEC. 10. The court of chancery shall have original and appellate jurisdiction in all matters of equity, and a general control over executors, administrators, guardians, and minors, subject to appeal, in all cases, to the supreme court, under such limitations as the general assembly may by law provide.

SEC. 11. Until the general assembly shall deem it expedient to establish inferior courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the court of chancery, in such manner and under such restrictions as shall be prescribed by law.

SEC. 12. Inferior tribunals shall be established in each county for the transaction of all county business, for appointing guardians, for granting letters-testamentary and of administration, and for settling the accounts of executors, administrators, and guardians.

SEC. 13. The governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the superior court, the judges of the circuit courts, and the chancellor, each of whom shall hold his office during good behavior, and shall receive for his services a compensation, which shall not be diminished during his continuance in office, and which shall not be less than two thousand dollars annually.

SEC. 14. No person shall be appointed a judge of the supreme court, nor of a circuit court, nor chancellor, before he shall have attained to the age of thirty years, nor shall any person continue to exercise the duties of any of said offices after he shall have attained to the age of sixty-five years.

SEC. 15. The courts respectively shall appoint their clerks, who shall hold their offices during good behavior. For any misdemeanor in office they shall be liable to be tried and removed by the supreme court, in such manner as the general assembly shall by law provide.

SEC. 16. Any judge of the supreme court, or of the circuit court, or the chancellor, may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that

purpose, but each house shall state, on its respective journal the cause for which it shall wish the removal of such judge or chancellor, and give him notice thereof, and he shall have the right to be heard in his defence in such manner as the general assembly shall by law direct; but no judge or chancellor shall be removed in this manner for any cause for which he might have been impeached.

SEC. 17. In each county there shall be appointed as many justices of the peace as the public good may be thought to require. Their powers and duties and their duration in office shall be regulated by law.

SEC. 18. An attorney-general shall be appointed by the governor, by and with the advice and consent of the senate. He shall remain in office four years, and shall perform such duties as shall be required of him by law.

SEC. 19. All writs and process shall run and all prosecutions shall be conducted in the name of the "*State of Missouri*;" all writs shall be tested by the clerk of the court from which they shall be issued, and all indictments shall conclude, "*against the peace and dignity of the State.*"

## ARTICLE VI

### OF EDUCATION

SECTION 1. Schools and the means of education shall forever be encouraged in this State; and the general assembly shall take measures to preserve from waste or damage such lands as have been, or hereafter may be, granted by the United States for the use of schools within each township in this State, and shall apply the funds which may arise from such lands in strict conformity to the object of the grant. One school or more shall be established in each township as soon as practicable and necessary, where the poor shall be taught gratis.

SEC. 2. The general assembly shall take measures for the improvement of such lands as have been, or hereafter may be, granted by the United States to this State for the support of a seminary of learning, and the funds accruing from such lands, by rent or lease, or in any other manner, or which may be obtained from any other source, for the purposes aforesaid, shall be and remain a permanent fund to support a university for the promotion of literature and of the arts and sciences, and it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement of such lands, and for the improvement and permanent security of the funds and endowments of such institution.

## ARTICLE VII

### OF INTERNAL IMPROVEMENT

Internal improvement shall forever be encouraged by the government of this State, and it shall be the duty of the general assembly, as soon as may be, to make provision by law for ascertaining the most proper objects of improvement, in relation both to roads and navigable waters; and it shall also be their duty to provide by law for a systematic and economical application of the funds appropriated to those objects.

## ARTICLE VIII

## OF BANKS

The general assembly may incorporate one banking company, and no more, to be in operation at the same time.

The bank to be incorporated may have any number of branches not to exceed five, to be established by law, and not more than one branch shall be established at any one session of the general assembly. The capital stock of the bank to be incorporated shall never exceed five millions of dollars, at least one-half of which shall be reserved for the use of the State.

## ARTICLE IX

## OF THE MILITIA

SECTION 1. Field-officers and company-officers shall be elected by the persons subject to militia duty within their respective commands. Brigadiers-general shall be elected by the field-officers of their respective brigades, and majors-general by the brigadiers and field-officers of their respective divisions, until otherwise directed by law.

SEC. 2. General and field officers shall appoint their officers of the staff.

SEC. 3. The governor shall appoint an adjutant-general, and all other militia officers whose appointments are not otherwise provided for in this constitution.

## ARTICLE X

## OF MISCELLANEOUS PROVISIONS

SECTION 1. The general assembly of this State shall never interfere with the primary disposal of the soil of the United States, nor with any regulation Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States, nor shall lands belonging to persons residing out of the limits of this State ever be taxed higher than the lands belonging to persons residing within this State.

SEC. 2. The State shall have concurrent jurisdiction on the river Mississippi, and on every other river bordering on the said State, so far as the said river shall form a common boundary to the said State and any other State or States, now or hereafter to be formed, and bounded by the same; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this State, shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, impost, or toll therefor imposed by the State.

## ARTICLE XI

## OF THE PERMANENT SEAT OF GOVERNMENT

SECTION 1. The general assembly, at their first session, shall appoint five commissioners for the purpose of selecting a place for the permanent seat of government, whose duty it shall be to select four sections

of the land of the United States which shall not have been exposed to public sale.

SEC. 2. If the commissioners believe the four sections of land, so by them to be selected, be not a suitable and proper situation for the permanent seat of government, they shall select such other place as they may deem most proper for that purpose, and report the same to the general assembly at the time of making their report provided for in the first section of this article: *Provided*, That no place shall be selected which is not situated on the bank of the Missouri River, and within forty miles of the mouth of the river Osage.

SEC. 3. If the general assembly determine that the four sections of land which may be selected by authority of the first section of this article be a suitable and proper place for the permanent seat of government, the said commissioners shall lay out a town thereon, under the direction of the general assembly; but if the general assembly deem it most expedient to fix the permanent seat of government at the place to be selected by authority of the second section of this article, they shall so determine, and in that event shall authorize the said commissioners to purchase any quantity of land, not exceeding six hundred and forty acres, which may be necessary for the purpose aforesaid; and the place so selected shall be the permanent seat of government of this State from and after the first day of October, one thousand eight hundred and twenty-six.

SEC. 4. The general assembly, in selecting the above-mentioned commissioners, shall choose one from each extreme part of the State, and one from the centre, and it shall require the concurrence of at least three of the commissioners to decide upon any part of the duties assigned them.

## ARTICLE XII

### MODE OF AMENDING THE CONSTITUTION

The general assembly may at any time propose such amendments to this constitution as two-thirds of each house shall deem expedient, which shall be published in all the newspapers published in this State three several times, at least twelve months before the next general election; and if, at the first session of the general assembly after such general election, two-thirds of each house shall, by yeas and nays, ratify such proposed amendments, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That such proposed amendments shall be read on three several days, in each house, as well when the same are proposed as when they are finally ratified.

## ARTICLE XIII

### DECLARATION OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

<sup>a</sup> SECTION 1. That all political power is vested in, and derived from, the people.

SEC. 2. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police

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<sup>a</sup> "Section" in this Declaration is omitted in the original.



thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness.

SEC. 3. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances by petition or remonstrance; and that their right to bear arms in defence of themselves and of the State cannot be questioned.

SEC. 4. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can be compelled to erect, support, or attend any place of worship, or to maintain any minister of the gospel or teacher of religion; that no human authority can control or interfere with the rights of conscience; that no person can ever be hurt, molested, or restrained in his religious profession or sentiments, if he do not disturb others in their religious worship.

SEC. 5. That no person, on account of his religious opinions, can be rendered ineligible to any office of trust or profit under this State; that no preference can ever be given by law to any sect or mode of worship; and that no religious corporation can ever be established in this State.

SEC. 6. That all elections shall be free and equal.

SEC. 7. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice ought to be administered without sale, denial, or delay; and that no private property ought to be taken or applied to public use without just compensation.

SEC. 8. That the right of trial by jury shall remain inviolate.

SEC. 9. That in all criminal prosecutions, the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusation; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial, by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence against himself, nor be deprived of life, liberty, or property but by the judgment of his peers, or the law of the land.

SEC. 10. That no person, after having been once acquitted by a jury, can, for the same offence, be again put in jeopardy of life or limb; but if in any criminal prosecution the jury be divided in opinion at the end of the term, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of such court.

SEC. 11. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* can not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 12. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 13. That the people ought to be secure in their persons, papers, houses, and effects from unreasonable searches and seizures; and no warrant to search any place, or to seize any person or thing, can issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 14. That no person can, for an indictable offence, be proceeded against criminally, by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court, for oppression or misdemeanor in office.

SEC. 15. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open court; that no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood, or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there ought to be no forfeiture by reason thereof.

SEC. 16. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print on any subject, being responsible for the abuse of that liberty; that in all prosecutions for libels the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

SEC. 17. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operations, can be passed; nor can the person of a debtor be imprisoned for debt after he shall have surrendered his property for the benefit of his creditors in such manner as may be prescribed by law.

SEC. 18. That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law; and that no priest, preacher of the gospel, or teacher of any religious persuasion or sect, regularly ordained as such, be subject to militia duty, or compelled to bear arms.

SEC. 19. That all property, subject to taxation in this State, shall be taxed in proportion to its value.

SEC. 20. That no title of nobility, hereditary emolument, privilege, or distinction shall be granted nor any office created, the duration of which shall be longer than the good behavior of the officer appointed to fill the same.

SEC. 21. That emigration from this State can not be prohibited.

SEC. 22. That the military is, and in all cases and at all times shall be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner nor in time of war but in such manner as may be prescribed by law; nor can any appropriation for the support of an army be made for a longer period than two years.

#### SCHEDULE

SECTION 1. That no inconvenience may arise from the change of government, we declare, that all writs, actions, prosecutions, judgments, claims, and contracts of individuals and of bodies-corporate shall continue as if no change had taken place; and all process which may, before the third Monday in September next, be issued under

the authority of the Territory of Missouri shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Missouri, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the general assembly.

SEC. 3. All fines, penalties, forfeitures, and escheats, accruing to the Territory of Missouri, shall accrue to the use of the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the third Monday in September next, shall remain valid, and shall pass over to and may be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court, in his official capacity, shall pass over to the governor, or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen, or which may arise before the third Monday in September next, and which shall then be depending, shall be prosecuted to judgment and execution in the name of the State. All actions at law which now are, or which, on the third Monday in September next, may be depending in any of the courts of record in the Territory of Missouri may be commenced in or transferred to any court of record of the State which shall have jurisdiction of the subject-matter thereof; and all suits in equity may, in like manner, be commenced in or transferred to the court of chancery.

SEC. 5. All officers, civil and military, now holding commissions under the authority of the United States, or of the Territory of Missouri, shall continue to hold and exercise their respective offices until they shall be superseded under the authority of the State; and all such officers holding commissions under the authority of the Territory of Missouri shall receive the same compensation which they hitherto received, in proportion to the time they shall be so employed.

SEC. 6. The first meeting of the general assembly shall be at Saint Louis, with power to adjourn to any other place; and the general assembly, at the first session thereof, shall fix the seat of government until the first day of October, eighteen hundred and twenty-six: and the first session of the general assembly shall have power to fix the compensation of the members thereof; anything in the constitution to the contrary notwithstanding.

SEC. 7. Until the first enumeration shall be made, as directed in this constitution, the county of Howard shall be entitled to eight representatives, the county of Cooper to four representatives, the county of Montgomery to two representatives, the county of Lincoln to one representative, the county of Pike to two representatives, the county of Saint Charles to three representatives, the county of Saint Louis to six representatives, the county of Franklin to two representatives, the county of Jefferson to one representative, the county of Washington to two representatives, the county of Saint Genevieve to four representatives, the county of Cape Girardeau to four representatives, the county of New Madrid to two representatives, the county of Madison to one representative, the county of Wayne to one representative, and that part of the county of Saint Lawrence situated within this State, shall attach to and form part of the county

of Wayne until otherwise provided by law, and the sheriff of the county of Wayne shall appoint the judges of the first election, and the place of holding the same, in the part thus attached; and any person who shall have resided within the limits of this State five months previous to the adoption of this constitution, and who shall be otherwise qualified as prescribed in the third section of the third article thereof, shall be eligible to the house of representatives, anything in this constitution to the contrary notwithstanding.

SEC. 8. For the first election of senators, the State shall be divided into districts, and the apportionment shall be as follows, that is to say, the counties of Howard and Cooper shall compose one district and elect four senators, the counties of Montgomery and Franklin shall compose one district and elect one senator, the county of Saint Charles shall compose one district and elect one senator, the counties of Lincoln and Pike shall compose one district and elect one senator, the county of Saint Louis shall compose one district and elect two senators, the counties of Washington and Jefferson shall compose one district and elect one senator, the county of Saint Genevieve shall compose one district and elect one senator, the counties of Madison and Wayne shall compose one district and elect one senator, the counties of Cape Girardeau and New Madrid shall compose one district and elect two senators; and in all cases where a senatorial district consists of more than one county, it shall be the duty of the clerk of the county second named in that district to certify the returns of the senatorial election within their proper county to the clerk of the county first named, within five days after he shall have received the same; and any person who shall have resided within the limits of this State five months previous to the adoption of this constitution, and who shall be otherwise qualified as prescribed in the fifth section of the third article thereof, shall be eligible to the senate of this State, anything in this constitution to the contrary notwithstanding.

SEC. 9. The president of the convention shall issue writs of election to the sheriffs of the several counties, or in case of vacancy to the coroners, requiring them to cause an election to be held on the fourth Monday in August next, for a governor, a lieutenant-governor, a Representative in the Congress of the United States, for the residue of the Sixteenth Congress, a Representative for the Seventeenth Congress, senators and representatives for the general assembly, sheriffs and coroners, and the returns of all township elections, held in pursuance thereof, shall be made to the clerks of the proper county within five days after the day of election; and any person who shall reside within the limits of this State at the time of the adoption of this constitution, and who shall be otherwise qualified as prescribed in the tenth section of the third article thereof, shall be deemed a qualified elector, anything in this constitution to the contrary notwithstanding.

SEC. 10. The elections shall be conducted according to the existing laws of the Missouri Territory. The clerks of the circuit courts of the several counties shall certify the returns of the election of governor and lieutenant-governor, and transmit the same to the speaker of the house of representatives, at the temporary seat of government, in such time that they may be received on the third Monday of September next. As soon as the general assembly shall be organized,

the speaker of the house of representatives, and the president *pro tempore* of the senate, shall, in the presence of both houses, examine the returns, and declare who are duly elected to fill those offices; and if any two or more persons shall have an equal number of votes, and a higher number than any other person, the general assembly shall determine the election in the manner hereinbefore provided; and the returns of the election for member of Congress shall be made to the secretary of the State within thirty days after the day of election.

SEC. 11. The oaths of office, herein directed to be taken, may be administered by any judge or justice of the peace, until the general assembly shall otherwise direct.

SEC. 12. Until a seal of the State be provided, the governor may use his private seal.

DAVID BARTON, *President*.

WM. G. PETTUS, *Secretary*.

### ORDINANCE

An Ordinance declaring the assent of the people of the State of Missouri, by their representatives in convention assembled, to certain conditions and provisions in the act of Congress on the sixth of March, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories

Whereas the act of Congress of the United States of America, approved March the sixth, one thousand eight hundred and twenty, entitled "An act to authorize the people of Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain Territories," contains certain requisitions and provisions, and, among other things, has offered to this convention, when formed, for and in behalf of the people inhabiting this State, for their free acceptance or rejection, the five following propositions, and which, if accepted by this convention in behalf of the people as aforesaid, are to be obligatory on the United States, viz:

"1st. That section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

"2d. That all salt-springs, not exceeding twelve in number, with six sections of land adjoining to each, shall be granted to the said State for the use of the said State, the same to be selected by the legislature of said State, on or before the first day of January, in the year one thousand eight hundred and twenty-five; and the same, when so selected, to be used under such terms, conditions, and regulations as the legislature of said State shall direct: *Provided*, That no salt-spring, the right whereof now is, or hereafter shall be, confirmed or adjudged to any individual or individuals shall by this section be granted to said State: *And provided also*, That the legislature



shall never sell nor lease the same, at any one time, for a longer period than ten years, without the consent of Congress.

“3d. That 5 per cent. of the net proceeds of the sale of lands lying within said Territory or State, and which shall be sold by Congress, from and after the first day of January next, after deducting all expense incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within the State, under the direction of the legislature thereof, and the other two-fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State.

“4th. That four entire sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon; which said sections shall, under the direction of the legislature of said State, be located, as near as may be, in one body, at any time, in such townships and ranges as the legislature aforesaid may select, on any of the public lands of the United States: *Provided*, That such location shall be made prior to the public sale of the lands of the United States surrounding such location.

“5th. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the other lands heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of said State, to be appropriated, solely for the use of such seminary, by the legislature:”

Now, this convention, for and in behalf of the people inhabiting this State, and by the authority of the said people, do accept the five before-recited propositions, offered by the act of Congress under which they are assembled; and, in pursuance of the conditions, requisitions, and other provisions in the before-recited act of Congress contained, this convention, for and in behalf of the people inhabiting this State, do ordain, agree, and declare that every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the respective days of sale thereof. And that the bounty-lands granted, or hereafter to be granted, for military services, during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from taxation, for the term of three years from and after the date of the patents, respectively; *Provided, nevertheless*, That if the Congress of the United States shall consent to repeal and revoke the following clause in the fifth proposition of the sixth section of the act of Congress before recited, and in these words, viz: “That every and each tract of land sold by the United States, from and after the first day of January next, shall remain exempt from any tax, laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale, and further”—that this convention, for and in behalf of the people of the State of Missouri, do hereby ordain, consent, and agree that the same be so revoked and repealed; without which consent of the Congress as aforesaid, the said clause

to remain in full force and operation as first above provided for in this ordinance; and this convention doth hereby request the Congress of the United States so to modify their third proposition that the whole amount of 5 per cent. on the sale of public lands therein offered may be applied to the construction of roads and canals, and the promotion of education within this State, under the direction of the legislature thereof. And this convention, for and in behalf of the people inhabiting this State, and by the authority of the said people, do further ordain, agree, and declare that this ordinance shall be irrevocable, without the consent of the United States.

Done in convention, at Saint Louis, in the State of Missouri, this nineteenth day of July, in the year of our Lord one thousand eight hundred and twenty, and of the Independence of the United States of America the forty-fifth.

By order of the convention :

DAVID BARTON, *President*.

WM. G. PETTUS, *Secretary*.

#### AMENDMENTS TO THE CONSTITUTION OF 1820 <sup>a</sup>

(Ratified 1822)

ARTICLE I. SECTION 1. The office of chancellor is hereby abolished, and the supreme courts and circuit courts shall exercise chancery jurisdiction, in such manner and under such restrictions as shall be prescribed by law.

SEC. 2. The judicial power, as to matters of law and equity, shall be vested in a supreme court, in circuit courts, and in such inferior tribunals as the general assembly may, from time to time, ordain and establish: *Provided*, The general assembly may establish a court or courts of chancery, and, from time to time, prescribe the jurisdiction, powers, and duties thereof.

SEC. 3. The judges of the supreme court, and the judges of the circuit courts, and chancellor shall, at stated times, receive a compensation for their services, to be fixed by law.

SEC. 4. No person holding an office of profit under the United States, and commissioned by the President, shall, during his continuance in such office, be eligible, appointed to, hold, or exercise any office of profit under this State.

SEC. 5. So much of the thirteenth section of the fourth article of the constitution of this State as provides that the compensation of the governor shall never be less than two thousand dollars annually, shall be repealed.

SEC. 6. So much of the thirteenth section of the fifth article of the constitution of this State as provides that the compensation of the judges of the supreme and circuit courts, and chancellor, shall never be less than two thousand dollars annually, shall be repealed.

SEC. 7. The offices of the judges of the supreme court, and of the judges of the circuit courts, shall expire at the end of the first session

<sup>a</sup> The amendments to the constitution of 1820, adopted prior to, and in 1861, were framed by the legislature, in accordance with Article XII. The others were framed by a State convention which met February 28, 1861, and, after repeated adjournments, completed its labors July 1, 1863.

of the next general assembly of this State, or as soon as their successors are, respectively, elected and qualified.

(Ratified 1824-35)

ART. II. SECTION 1. That the offices of the several judges of the circuit courts within this State shall be vacated on the 1st day of January, 1836.

SEC. 2. That so much of the fifteenth section of the fifth article of the constitution of this State as provides that the courts, respectively, shall appoint their clerks, and that they shall hold their offices during good behavior shall be, and the same is hereby, abolished.

SEC. 3. That the offices of the clerks of the several courts within this State shall be vacated on the first day of January, one thousand eight hundred and thirty-six; and the clerks of the circuit and county courts of the respective counties shall be elected by the qualified electors of their respective counties, and shall hold their offices for the term of six years, and until their successors are duly elected, commissioned, and qualified.

SEC. 4. That the boundary of the State be so altered and extended as to include all that tract of land lying on the north side of the Missouri River, and west of the present boundary of this State, so that the same shall be bounded on the south by the middle of the main channel of the Missouri River, and on the north by the present northern boundary-line of the State, as established by the constitution, when the same is continued in a right line to the west, or to include so much of said tract of land as Congress may assent.

(Ratified 1848-49.)

ART. III. The house of representatives shall consist of members to be chosen every second year, by the qualified electors of the several counties, apportioned in the following manner, to wit: The ratio of representation shall be ascertained at each apportioning session of the legislature by dividing the whole number of permanent free white inhabitants of the State by the number of one hundred and forty; each county having said ratio, or less, shall be entitled to one representative; each county having said ratio and a fraction over equal to three-fourths, shall be entitled to two representatives; each county having three times said ratio, shall be entitled to three representatives; each county having four times said ratio and a fraction over equal to one-half, shall be entitled to four representatives; each county having six times said ratio, shall be entitled to five representatives; each county having eight times said ratio, shall be entitled to six representatives; each county having ten times said ratio, shall be entitled to seven representatives; each county having thirteen times said ratio, shall be entitled to eight representatives; each county having fifteen times said ratio, shall be entitled to nine representatives; each county having eighteen times said ratio shall be entitled to ten representatives; each county having twenty-five times said ratio, shall be entitled to eleven representatives; each county having twenty-four times said ratio, shall be entitled to twelve representatives; any county having more than twenty-four times said ratio, shall be represented in the same proportion. And the general assembly which shall meet in

the year eighteen hundred and forty-eight, and every fourth year thereafter, shall apportion the number of representatives among the several counties as herein directed. And the members of the general assembly shall receive, as compensation for their services, not to exceed three dollars per day for the first sixty days; and after that time not to exceed one dollar per day for the remainder of the session; except at a revising session, they may receive a compensation not to exceed three dollars per day for the first one hundred days, and one dollar per day for the remainder of the session; but the general assembly may allow a greater compensation to the presiding officer of each house. No county now established by law shall ever be reduced, by the establishment of new counties, to less than twenty miles square, nor to less than five hundred square miles, nor below the ratio of representation then required; nor shall any county be hereafter established containing less than five hundred square miles; nor shall any county hereafter established be entitled to separate representation, unless the number of permanent free white inhabitants therein shall at the time be equal to three-fourths of the ratio of representation then being, but may be organized with a smaller number for all other purposes, civil and military. The second, fourth, twenty-fourth, and thirty-fourth sections of the third article of the constitution are hereby abolished.

ART. IV. The thirteenth section of the fifth article of the constitution is hereby abolished, and the following is adopted in lieu thereof:

“The governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the supreme court and the judges of the circuit courts.

“Each judge of the supreme court shall be appointed for the term of twelve years, and each judge of the circuit courts shall be appointed for the term of eight years; and every appointment to fill a vacancy shall be for the residue of the term only; but in all cases the judge shall continue in office until a successor shall be appointed and qualified. The judges of the supreme and circuit courts shall be eligible to reappointment. The offices of the several supreme and circuit judges shall be vacated on the first day of March, eighteen hundred and forty-nine.”<sup>a</sup>

ART. V. If there be a vacancy in the office of judge of any circuit, or if he be sick, absent, or from any cause unable to hold any term of court of any county of his circuit, such term of court may be held by a judge of any other circuit; and, at the request of the judge of any circuit, any term of court in his circuit may be held by the judge of any other circuit.

(Ratified 1850-51)

ART. VI. SECTION 1. That hereafter the judges of the supreme court shall be elected by the qualified electors of the State; and each shall hold his office for the term of six years only, but may continue in office until his successor shall be elected and qualified; and if any vacancy shall happen in the office of any judge of the supreme court by death, resignation, removal out of the State, or by any other

<sup>a</sup> This article was abolished by the adoption of Articles VI and VII of amendments.

disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy; but every election to fill a vacancy shall be for the residue of the term only. The general assembly shall provide by law for the election of said judges by the qualified voters in the State; and in case of a tie, or a contested election, between the candidates, the same shall be determined in the manner to be prescribed by law; and the general assembly shall also provide for an election to fill any vacancy which shall occur at any time within twelve months preceding a general election for said judges. The first general election for supreme-court judges shall be on the first Monday in August, A. D. 1851, and on the first Monday in August every six years thereafter. If a vacancy shall occur in the office of a supreme-court judge, less than twelve months before a general election for said judges, such vacancy shall be filled by an appointment by the governor; and the judge so appointed shall hold his office only until the next general election for said judges.

SEC. 2. The offices of the several supreme-court judges shall be vacated on the first Monday in August, A. D. 1851; and all parts of the original constitution, or of any amendment thereto, inconsistent with or repugnant to this amendment are hereby abolished.

ART. VII. That so much of the thirteenth section of the fifth article of the constitution of this State, ratified at the present session of the general assembly, as provides that the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the circuit courts, and that each judge of the circuit courts shall be appointed for the term of eight years, and that every appointment to fill a vacancy of such judge shall be for the residue of the term only, is hereby abolished; and hereafter each judge of the circuit courts shall be elected by the qualified electors of their respective circuits, and shall be elected for the term of six years, but may continue in office until his successor shall be elected and qualified; and if any vacancy shall happen in the office of any circuit judge, by death, resignation, removal out of his circuit, or by any other disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy: *Provided*, That said vacancy shall happen at least six months before the next general election for said judge; but if such vacancy shall happen within six months of the general election aforesaid, the governor shall appoint a judge for such circuit; but every such election or appointment to fill a vacancy shall be for the residue of the term only. And the general assembly shall provide by law for the election of said judges in their respective circuits; and in case of a tie or contested election between the candidates, the same shall be determined in the manner to be prescribed by law. And the general assembly shall provide by law for the election of said judges in their respective circuits, to fill any vacancy which shall occur at any time at least six months before a general election for said judges. The first general election for circuit judges shall be on the first Monday in August, A. D. 1851, and on the first Monday in August every six years thereafter. No judicial circuit shall be altered or changed at any session of the general assembly next preceding the general election for said judges. The offices of the several circuit judges shall be vacated on the first Monday in August, A. D. 1851.



ART. VIII. SECTION 1. That the twenty-first section of the fourth article of the Constitution of the State of Missouri be, and the same is hereby, abolished.

SEC. 2. There shall be a secretary of state, who shall be elected by the qualified voters of this State, at such time and in such manner as shall be provided by law. He shall hold his office for four years, unless sooner removed by an impeachment. He shall keep a register of the official acts of the governor, and, when necessary, shall attest them, and he shall lay the same, together with all papers relating thereto, before either house of the general assembly, whenever required so to do, and shall perform such other duties as may be enjoined on him by law.

SEC. 3. The eighteenth section of the fifth article of the constitution of the State of Missouri is hereby abolished.

SEC. 4. There shall be an attorney-general, who shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law. He shall remain in office four years, and shall perform such duties as shall be required of him by law.

SEC. 5. The twelfth section of the fourth article of the constitution of this State is hereby abolished.

SEC. 6. There shall be an auditor of public accounts, who shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law. He shall remain in office four years, and shall perform such duties as shall be required of him by law. His office shall be kept at the seat of government.

SEC. 7. The thirty-first section of the third article of the constitution of this State is hereby abolished.

SEC. 8. A State treasurer shall be elected by the qualified voters of this State, at such times and in such manner as shall be provided by law, who shall continue in office for four years, and who shall keep his office at the seat of government. No money shall be drawn from the treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of the public money shall annually be published.

SEC. 9. There shall be a register of lands elected by the qualified voters of this State, at such time and in such manner as shall be provided by law. He shall hold his office for four years, shall keep his office at the seat of government, and shall perform such duties as shall be required of him by law.

(Ratified 1852-53)

ART. IX. The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them, for such causes as may be specified by law: *Provided*, That such laws be general and uniform in their operation throughout the State.

(Ratified 1854-55)

ART. X. That all that territory now known as the county of Schuyler is hereby declared to constitute a constitutional county, and, as such, shall be entitled to all the privileges, civil and political, which now belong to any county within the State of Missouri.

Article eight of the constitution of the State of Missouri, respecting banks, be, and the same is hereby, abolished, and the following substituted in lieu thereof:

“ART. VIII. The general assembly shall have power to establish such bank or banks as may be deemed necessary for the interests of the State; but every bank so established shall be based upon a specie capital, and made liable to redeem its issues in gold or silver: *Provided*, That the number of banks chartered shall never exceed ten, and the aggregate amount of capital shall never exceed twenty millions of dollars.”

(Ratified 1859)

The public debt of this State, created by the issue of bonds or other State securities, or by incurring any State liability whatever, for the prosecution of internal improvements, or for any other purpose, shall never exceed the sum of thirty millions of dollars; and the legislature shall have no power to create any State liability beyond this amount, except to repel invasion, or to suppress insurrection or civil war.

(Ratified 1861)

The general assembly shall have power to establish a county, consisting of all that territory lying within the following limits, which shall possess and enjoy all the powers and privileges of any county now established, anything in the third article of amendments to the constitution to the contrary notwithstanding; namely, the territory lying between the northern boundary of Gentry County proper and the northern boundary of the State of Missouri, and between the former western boundary of said State and the line dividing ranges twenty-nine and thirty west of the fifth principal meridian.

## ORDINANCES OF THE CONVENTION OF MISSOURI—1861-'63 \* <sup>a</sup>

### AMENDING THE CONSTITUTION OF 1820

*The people of the State of Missouri, by their delegates in convention assembled, do ordain as follows:*

*First.* That the offices of governor, lieutenant-governor, secretary of state, and members of the general assembly be, and the same are hereby, vacated.

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\* Journal and Proceedings of the Missouri State Convention Held at Jefferson City and St. Louis, March, 1861. St. Louis: George Knapp & Co., Printers and Binders, 1861. pp. 65. pp. 269.

Also, Journal of the Missouri State Convention Held at Jefferson City, July, 1861. St. Louis: George Knapp & Co., Printers and Binders, 1861. pp. 136.

Journal of the Missouri State Convention Held at the City of St. Louis, October, 1861. St. Louis: George Knapp & Co., Printers and Binders, 1861. pp. 111.

Journal of the Missouri State Convention, held in Jefferson City, June 1862. St. Louis: George Knapp and Co., Printers and Binders. 1862. pp. 32.

Proceedings of the Missouri State Convention, held in Jefferson City, June 1862. St. Louis: George Knapp & Co., Printers and Binders. 1862. pp. 253.

Journal of the Missouri State Convention Held in Jefferson City, June, 1863. St. Louis: George Knapp & Co., Printers and Binders, 1863. pp. 54. Appendix, pp. 16.

Proceedings of the State Convention Held in Jefferson City June, 1863. St. Louis: George Knapp & Co., Printers and Binders, 1863. pp. 380.

<sup>a</sup> These ordinances were passed by a regularly-convened State convention which assembled at Jefferson City February 28, 1861, and adjourned March 22, 1861; reassembled July 22, 1861, and adjourned July 31; reassembled October 10, 1861, and adjourned October 18; reassembled June 2, 1862, and adjourned June 14; reassembled June 15, 1863, and adjourned *sine die* July 1, 1863.

*Second.* A governor, lieutenant-governor, and secretary of state shall be appointed by this convention to discharge the duties and exercise the powers which pertain to their respective offices by the existing laws of the State, and to continue in office until the first Monday of November, 1861, and until their successors are elected and qualified, or until the qualified voters, as hereinafter provided, disapprove the action of this convention.

*Third.* On the first Monday of November, 1861, a governor, lieutenant-governor, and secretary of state, and members of the general assembly, shall be elected by the qualified voters of this State, to hold their offices during the term for which the present incumbents of said offices were elected.

*Fourth.* The elections provided to be held by this ordinance on the first Monday of November, 1861, shall be conducted in the same manner in all respects as is now provided by the election laws of this State now in force, and shall be held by the qualified voters of the State, at the same place in the election precincts now established by law where the elections were held for delegates to this convention on the 18th day of February last; and in case any clerk shall fail to make out the proper poll-books, or in case any sheriff shall fail to deliver the same to the judges of election, then the clerks of the election may proceed to make out such poll-books.

*Fifth.* In case the clerks of the several courts, whose duty it is as now provided by law to certify and send up to the secretary of state an abstract of the votes given at such election, or in case there should be a failure to receive such returns at the seat of government within twenty days after the first Monday of November, 1861, the secretary of state shall dispatch a messenger to the county not returned, with directions to bring up the poll-books authorized to be retained by the judges of election, and the secretary of state, in the presence of the governor, shall proceed to cast up the votes given at such election, and shall thereupon proceed to issue commissions to the candidates having the highest number of votes.

*Sixth.* *Be it further ordained,* That the returns of the election for governor, lieutenant-governor, and secretary of state, provided for by this ordinance, shall be made to the office of the secretary of state as now provided by law; and the secretary of state, within forty days after the first Monday of November, 1861, or sooner if the returns shall have been made, shall, in the presence of the governor, proceed to cast up the votes given at said election for governor, lieutenant-governor, and secretary of state; and shall give to the persons having the highest number of votes for these offices respectively certificates of their election; and the persons so elected shall immediately thereafter be qualified and enter upon the discharge of the duties of their respective offices.

Adopted, July 30, 1861.

#### CONCERNING THE ABROGATION OF CERTAIN LAWS.

Whereas the general assembly of the State of Missouri did, in secret session, contrary to the known wishes of their constituents, in violation of the constitution and the dearest rights and interests of the people, and for the purpose of dissolving the political relations of this State to the Government of the United States, and subverting the

institutions of this State, enact certain odious laws hereinafter enumerated: Therefore,

*First. Be it ordained by the people of Missouri, in convention assembled,* That an act entitled "An act to provide for the organization, government, and support of the military forces of the State of Missouri," approved May 14, 1861; also, an act to create a military fund for the State, entitled "An act to raise money to arm the State, repel invasion, and protect the lives and property of the people of Missouri," approved May 11, 1861; also, an act entitled "An act to authorize the appointment of one major-general for the Missouri militia," approved May 15, 1861; also, a "Joint resolution to suspend the apportionment of the State school-money for the year 1861," approved May 11, 1861; also, an act entitled "An act to perpetuate friendly relations with the Indian tribes," approved May 11, 1861; be, and the same are hereby, repealed and declared of no effect or validity whatever.

*Second.* That all commissions issued or appointments made under the authority of the above-recited acts, or any of them, be, and the same are hereby, annulled; and all soldiers and other persons serving or employed under any of said acts are hereby disbanded and discharged from such service or employment.

*Third. And be it further ordained,* That for the purpose of providing for the organization of the militia of the State, the following act, to wit, an act entitled "An act to govern and regulate the volunteer militia of the State," approved December 31, 1859, be, and the same is hereby, revived and declared to be in full force and effect.

Adopted, July 30, 1861.

#### SUBMITTING THE ACTION OF THE CONVENTION TO THE PEOPLE

*Be it ordained by the people of Missouri, in convention assembled,* That at the election provided to be held on the first Monday of November, eighteen hundred and sixty-one, for the election of governor, lieutenant-governor, secretary of state, and members of the general assembly, the several clerks of the county courts, or, in case said clerks shall fail, then the clerks of the election, in making the poll-books for the election, shall provide two columns, one headed "For the action of the convention," and the other "Against the action of the convention;" and if a majority of the legal votes given upon the action of the convention be for the same, then the officers elected shall hold their offices as provided by the ordinance for their election; but if a majority of the votes cast as aforesaid be against the action of the convention, then said election shall be null and void, and the persons so chosen shall not enter upon the discharge of the duties of their offices, the officers chosen by this convention shall go out of office, and the ordinance of this convention providing for the abrogation of certain acts of the legislature shall thereafter be of no force or effect whatever. The returns of the votes so cast on the action of the convention shall be made to the office of secretary of state in the same manner as is provided by ordinance of this convention in regard to the offices of governor, lieutenant-governor, and secretary of state, and the votes shall be cast up by the same officer; and when the result

thereof shall be ascertained, the governor appointed by this convention shall, by public proclamation, announce the same, which proclamation shall be filed in the office of secretary of state.

Adopted, July 30, 1861.

#### CHANGING THE TIME OF HOLDING THE ELECTIONS

Whereas this convention did, during its session at Jefferson City, on the 30th day of July, A. D. 1861, adopt an ordinance providing for the election of certain State officers, and also an ordinance providing for submitting its action to the people of the State of Missouri, and appointing a time therefor; and whereas it is manifest that, by reason of the disturbed condition of the State, it will be impossible, at the time so appointed, to elicit a fair expression of the popular will: Therefore,

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:*

*First.* That so much of an ordinance entitled "An ordinance providing for certain amendments to the constitution," (adopted on the 30th day of July, A. D. 1861,) as provides for the election of a governor, lieutenant-governor, secretary of state, and members of the general assembly, on the first Monday of November, A. D. 1861, and so much of an ordinance entitled "An ordinance for submitting the action of this convention to a vote of the people of Missouri," (adopted on the same day,) as provides for submitting the action of this convention to a vote of the people on the first Monday of November, A. D. 1861, be, and the same are hereby, so modified that said elections shall not be held on the day therein named, but instead thereof shall be held on the first Monday of August, A. D. 1862.

*Second.* Said elections, and all other elections held previous thereto, shall in all other respects be held, and the returns thereof made, as provided in the ordinances heretofore adopted by this convention.

*Third.* The governor, lieutenant-governor, and secretary of state heretofore appointed by this convention, shall discharge the duties and exercise the powers which pertain to their respective offices, and continue in office until the first Monday of August, A. D. 1862, and until their successors are duly elected and qualified, or until the qualified voters of the State shall disapprove the action of this convention.

Adopted, October 12, 1861.

#### ABOLISHING CERTAIN OFFICES, REDUCING SALARIES, AND TESTING THE LOYALTY OF CIVIL OFFICERS, AND OFFERING AMNESTY TO CERTAIN PERSONS ON CERTAIN CONDITIONS

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

*First.* That the board of public works be, and is hereby, abolished, and the offices and pay of the members of said board shall cease and determine from and after the passage of this ordinance.

*Second.* That the office of State superintendent of common schools be, and is hereby, abolished, and the pay of said officer shall cease and determine from and after the passage of this ordinance, and the



duties pertaining to said office shall be discharged by the secretary of state.

*Third.* The offices of county-school commissioner be, and is hereby, abolished in all the counties of this State, Saint Louis County excepted, and the pay of said officers shall cease and determine from and after the passage of this ordinance; and the clerks of the respective county courts shall discharge all the duties of common-school commissioner in their respective counties, except visiting and lecturing in the schools, and that the fees of said clerks, respectively, for services herein contemplated, shall in no case exceed the sum of fifty dollars per annum.

*Fourth.* That the offices of State geologist and assistant State geologist be, and are hereby, abolished, and the pay of said officers shall cease and determine from and after the passage of this ordinance.

*Fifth.* That the salaries of all civil officers in this State, so far as the same are paid out of the State treasury, or made a burden on the county treasuries by State legislation, be, and are hereby, reduced twenty per cent. during the year ending 30th September, 1862; and said percentage shall be deducted from the amount of said salaries, and withheld from said officers from and after the passage of this ordinance, until the said thirtieth day of September, A. D. 1862.

*Sixth.* That each civil officer in this State shall, within sixty days after the passage of this ordinance, take and subscribe an oath to support the Constitution of the United States and this State; that he will not take up arms against the Government of the United States nor the provisional government of this State, nor give aid or comfort to the enemies of either during the present civil war; that said oath, duly subscribed and sworn to, shall, within the sixty days aforesaid, be filed by county officers in the clerk's office of their respective counties; and all other officers shall, within the time aforesaid, file said oath, sworn to and subscribed as aforesaid, in the office of the secretary of state. And the offices of all persons failing to file said oath, as herein provided, are hereby declared vacant; and the secretary of state and respective county clerks shall, immediately after the expiration of the sixty days aforesaid, certify, under the seal of their respective offices, any vacancy that may exist under the operations of this ordinance to the proper authorities under existing laws, and such authorities shall fill said offices by appointment for the residue of the term. And any civil officer who shall falsely take said oath, or wilfully violate the same, shall be deemed and adjudged guilty of perjury, and punished accordingly.

*Seventh.* The respective county-court clerks in this State shall take and subscribe the oath provided in this ordinance, and file the same in the office of the secretary of state within the sixty days aforesaid; and if any county-court clerk shall fail to file said oath, duly subscribed and sworn to as aforesaid, his office is hereby declared vacant, and such vacancy shall be filled by the authorities under existing laws; and in such case the other county officers of such county shall comply with the requirements of this ordinance within twenty days after said vacancy shall be filled under the provisions of this ordinance.

*Eighth.* Any person whatsoever who may take and subscribe the oath provided by this ordinance, and file the same in the office of the secretary of state, or any county clerk's office in this State, within ten

days after receiving notice of the passage of this ordinance, being within sixty days of the passage thereof, shall be exempt from arrest or punishment for offences previously committed by taking up arms against the provisional government of this State, or giving aid or comfort to its enemies in the present civil war, subject to the penalties of perjury as provided in this ordinance; and it shall be the duty of the secretary of state and respective county clerks to make out and deliver to persons filing such oath a certificate of the fact under their respective seals of office, which certificate shall be *prima-facie* evidence in all courts, and to all persons, that the person named therein has complied with and claims the benefit of this ordinance. And the governor of this State is hereby directed to furnish a copy of this ordinance to the President of the United States immediately, and request him, in the name of the people of Missouri, by proclamation, to exempt all persons taking said oath under this ordinance from all penalties they may have incurred by taking up arms against the United States, or giving aid or comfort to its enemies in the present civil war.

Adopted, October 16, 1861.

#### RESPECTING CERTAIN RECORDS AND OTHER PROPERTY

*Be it ordained by the people of the State of Missouri, in convention assembled:*

That it shall be the duty of the board of public works, of the commissioner of common schools, and of the geologist and assistant geologist of the State, to transfer and deliver the records, papers, and other property of their respective offices to the secretary of state, who shall preserve an inventory thereof in his office and grant proper receipts therefor. The county-school commissioners shall in like manner deliver the records, papers, and other property of their respective offices to the clerks of their respective counties, who shall in like manner issue to them receipts for the same.

Adopted, October 16, 1861.

#### PROVIDING FOR THE ORGANIZATION OF THE STATE MILITIA

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:*

*First.* All able-bodied free white male inhabitants of this State, between the ages of eighteen and forty-five years, shall be liable to military duty under this ordinance, and when enrolled shall constitute and be known and designated as the "Missouri State Militia."

*Second.* When the Missouri State militia shall be called into the actual service of the State, the officers and men shall be subject to the same rules and regulations and articles of war that govern the armies of the United States.

#### ORGANIZATION

*Third.* The commander-in-chief shall have power to call troops into actual service by volunteer enlistments, according to such regulations as he may prescribe.

*Fourth.* Troops shall be mustered into service by the inspector-general or his assistants, in such manner as may be prescribed by the

commander-in-chief, and on entering the service all officers and men shall take the following oath, to be administered by the inspecting officer:

“ You, each and every one of you, do solemnly swear that you will honestly and faithfully serve the State of Missouri against all her enemies, and that you will do your utmost to sustain the Constitution and laws of the United States, and of this State, against all violence of whatsoever kind or description; and you do further swear that you will well and truly execute and obey the lawful orders of all officers properly placed over you, whilst on duty: So help-you God.”

*Fifth.* The State militia of Missouri shall be organized by companies into battalions, regiments, and brigades, in the manner prescribed in the Rules and Regulations for the Government of the United States Army, and when in actual service of the State shall receive the same pay and emoluments as the United States Army; and any company, battalion, or regiment mustered into the service of the State may, at their option, at any time be mustered into the service of the United States.

*Sixth.* Companies of infantry shall not contain less than sixty-four men, (including non-commissioned officers,) nor more than one hundred.

Companies of cavalry shall contain not less than fifty men, (including non-commissioned officers,) nor more than eighty.

Companies of artillery shall not contain less than fifty nor more than one hundred men.

*Seventh.* The commissioned officers of a company of infantry, cavalry, or artillery shall be one captain, one first and one second lieutenant, who shall be elected by the members of the company after being mustered into service; and any vacancy in such offices shall be filled by election in like manner.

*Eighth.* Captains of companies shall appoint the non-commissioned officers of their own companies.

#### REGIMENTS

*Ninth.* A regiment shall consist of not less than eight nor more than ten companies; the field-officers of which shall consist of one colonel, one lieutenant-colonel, and one major.

#### BRIGADES

*Tenth.* A brigade shall consist of not less than two nor more than five regiments, to be commanded by a brigadier-general.

#### STAFF

*Eleventh.* The governor shall nominate and, by and with the advice of the senate, appoint the following chiefs of staff department: one adjutant-general, one inspector-general, one quartermaster-general, one commissary-general, one surgeon-general, one paymaster-general—all with the rank of colonel of cavalry—each of whom shall perform the duties of his office in accordance with the rules and

regulations of the United States Army, or such other rules and regulations as may be prescribed by the commander-in-chief.

*Twelfth.* The quartermaster-general and the commissary-general shall, on receiving their appointments, execute and deliver to the State their bonds, each in the sum of twenty thousand dollars, with sureties, to be approved by the governor, for the faithful performance of their duties, and the governor shall require of all disbursing officers a bond in such amounts and with such securities as he may deem necessary for the faithful discharge of their duties.

*Thirteenth.* The commander-in-chief may also appoint and commission such number of aides-de-camp as may be necessary for the requirements of the service, with the rank of colonel.

*Fourteenth.* The commander-in-chief shall also, without the concurrence of the senate, appoint and commission such other staff-officers as may be necessary for the requirements of the service, and shall designate their rank in their respective commissions; and such officers shall perform such duties as are prescribed by the rules and regulations of the Army of the United States, or such as may be prescribed by the commander-in-chief.

#### OFFICERS

*Fifteenth.* The governor shall nominate and, by and with the advice and consent of the senate, appoint one major-general, and the necessary number of brigadier-generals, colonels, lieutenant-colonels, and majors of the line.

*Sixteenth.* Whenever, during the recess of the senate, it shall be necessary to appoint to any military office of the line above the rank of captain, the governor may appoint to such office, subject to the confirmation of the senate at their next session thereafter.

*Seventeenth.* The major-general commanding may nominate to the governor for commission one assistant adjutant-general, two aides-de-camp with the rank of lieutenant-colonel; and the commander-in-chief may detail for duty on the staff of the major-general commanding such other staff-officers as the necessities of the service may require.

*Eighteenth.* Brigadier-generals, when in actual command, may nominate to the governor for commission one acting assistant adjutant-general, one aide-de-camp with the rank of major; and the commander-in-chief may detail such other staff-officers for duty with the brigade as the necessities of the service may require.

*Nineteenth.* Colonels of regiments, when in actual command, shall nominate to the governor for commission one adjutant with the rank of captain; and the commander-in-chief may detail such other staff-officers for regimental duty as the service requires. The colonel of each regiment shall select from his command well-instructed and good soldiers to fill the posts of sergeant-major, quartermaster-sergeant, commissary-sergeant, and color sergeants, who will constitute the non-commissioned staff of the regiment, and be appointed by warrant given under the hand of the colonel.

*Twentieth.* Persons holding civil offices under this State, or civil military offices under the United States, may hold offices under this ordinance; and no civil office under this State shall be vacated by the acceptance of a military office under the United States.

## UNIFORM

*Twenty-first.* The commander-in-chief shall prescribe the uniform to be worn by the Missouri militia.

*Twenty-second.* All officers, when on duty, shall wear the uniform of their rank.

## COURT-MARTIAL

*Twenty-third.* Courts-martial shall be constituted, and shall proceed in all cases in the same manner as is provided by law or regulation for the Army of the United States.

*Twenty-fourth.* All contractors for supplies for the State militia shall be subject to trial by court-martial for any fraud practised in respect to such supplies, and shall, on conviction thereof, be punished with death or other punishment, at discretion of the court.

*Twenty-fifth.* Any officer of the State militia who shall be convicted by a court-martial of wilfully defrauding the State in any matter of which he has official charge, or of conniving at any fraud practised upon the State by others, shall suffer death, or such other punishment as the court may inflict.

*Twenty-sixth.* The commander-in-chief shall have power to prescribe such rules and regulations for the government of the Missouri State militia as he may deem necessary.

*Twenty-seventh.* He may vacate the commission of any officer whom he may judge unfit for the service, and he shall have power to appoint military boards to report upon the qualifications of any officer commissioned or to be commissioned.

*Twenty-eighth.* The articles of war shall be published with this ordinance, with the verbal changes necessary to conform them to forces organized and serving under the authority of the State.

*Twenty-ninth.* Headquarters of the Missouri State militia shall be in Saint Louis until removed by the commander-in-chief.

*Thirtieth.* No period of residence is required to admit persons to service in the Missouri State militia.

*Thirty-first.* All bodies of troops heretofore organized and mustered into the service of the State under the provision of an ordinance entitled "An ordinance concerning the repeal and abrogation of certain laws, and for other purposes," heretofore adopted by this convention, shall be continued in the service as [if] organized under this act: *Provided, however,* That the governor may remove any officer now acting in the militia, in accordance with the provisions of the twenty-seventh section of this act; and may at any time vacate the commissions of such officers as are not authorized by this ordinance: *And provided also,* That all commissions now issued to third lieutenants of companies under the said recited act are hereby vacated; and it shall be the duty of the commander-in-chief to authorize some member of the staff department, or some other agent whom he may appoint for that purpose, to proceed to such place in the State as may be necessary, and examine into the expenses incurred in the preliminary assembling and organization of companies, the procurement of arms, the furnishing of supplies, and other necessary expenses incurred in and about the organization of troops under the governor's proclamation of the 24th of August last, and said agent or officer shall adjust such claims as may be prescribed to him, allowing such as may be deemed just,



and rejecting those found to be unjust. He shall report his proceeding to the governor, who, if he approve the same, shall so certify to the proper officer, who shall cause the claims or account so allowed to be paid; but such preliminary examination shall be unnecessary in any case where the governor shall have such personal knowledge in regard to any such claims as to justify him in certifying it to the proper officer as hereinbefore provided.

*Thirty-second.* So much of the act to govern and regulate the volunteer militia of the State, approved as aforesaid by this convention, as conflicts with the provisions of this ordinance is hereby repealed; but all legal acts done and proceedings properly had for the organization and support of the militia under and by virtue of said act shall be valid and binding as if authorized by this ordinance.

*Thirty-third.* This ordinance may be altered, modified, or repealed by the general assembly of this State, in the same manner and with like effect as the ordinary legislation of the State may be altered, amended, or repealed.

Adopted, October 17, 1861.

AMENDING "AN ORDINANCE ABOLISHING CERTAIN OFFICES, REDUCING SALARIES, AND TESTING THE LOYALTY OF CIVIL OFFICERS IN THIS STATE"

*Be it ordained by the people of the State of Missouri in convention assembled:*

SECTION 1. That the seventh section of an ordinance entitled "An ordinance providing for abolishing certain offices, reducing salaries, and testing the loyalty of civil officers in this State," adopted by this convention at its session in Saint Louis, in October, 1861, be, and the same is hereby, repealed.

SEC. 2. That all appointments to fill vacancies created by the provisions of the sixth section of said ordinance are hereby declared valid from the time said appointments were made, anything in said seventh section to the contrary notwithstanding.

Adopted June 7, 1862.

REPEALING CERTAIN ORDINANCES SUBMITTING THE ACTION OF THE CONVENTION TO A VOTE OF THE PEOPLE

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

That all ordinances and parts of ordinances heretofore passed by this convention, submitting its action to a vote of the people of the State, be, and the same are hereby, repealed.

Adopted June 7, 1862.

DEFINING THE QUALIFICATIONS OF VOTERS AND CIVIL OFFICERS IN THIS STATE

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

SECTION 1. No person shall vote at any election to be hereafter held in this State, under or in pursuance of the constitution and laws

thereof, whether State, county, township, or municipal, who shall not, in addition to possessing the qualifications already prescribed for electors, previously take an oath in form as follows, namely: "I, \_\_\_\_\_, do solemnly swear [or affirm, as the case may be] that I will support, protect, and defend the Constitution of the United States, and the constitution of the State of Missouri, against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, give aid and comfort, or countenance, to the enemies or opposers thereof, or of the provisional government of the State of Missouri, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose faithfully to keep and perform the same, without any mental reservation or evasion whatever. And I do further solemnly swear [or affirm] that I have not, since the 17th day of December, A. D. 1861, wilfully taken up arms, or levied war against the United States, or against the provisional government of the State of Missouri: So help me God."

SEC. 2. Before any person shall be elected or appointed to any civil office within this State, under the constitution and the laws thereof, whether State, county, township, municipal, or other civil office, he shall take and subscribe an oath in form as follows: "I, A. B., do, on oath, [or affirmation,] declare that I have not, during the present rebellion, wilfully taken up arms, or levied war against the United States, nor against the provisional government of the State of Missouri, nor have wilfully adhered to the enemies of either, whether domestic or foreign, by giving them aid and comfort, but have always in good faith opposed the same. And further, that I will support, protect, and defend the Constitution of the United States and of the State of Missouri against all enemies and opposers, whether domestic or foreign, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding, and that I do this with an honest purpose, pledge, and determination faithfully to perform the same, without any mental reservation or evasion whatever;" which oath shall be filed in the office of the secretary of state by all candidates for State offices, and by candidates for all county and other offices, in the office of the clerk of the county court, [or other officer charged with equivalent duties,] in the counties wherein they respectively reside, at least five days before the day of election; and no vote shall be cast up for, or certificate of election granted to, any candidate who fails to file such oath, as required by this ordinance.

SEC. 3. Any person who shall falsely take, or, having taken, shall thereupon wilfully violate any oath prescribed by this ordinance, shall, upon conviction thereof, by any court of competent jurisdiction, be adjudged guilty of the crime of perjury, and shall be punished therefor in accordance with existing laws. And it shall be the duty of the judges of all courts having criminal jurisdiction under the laws of this State specially to charge the grand juries in the counties in which such courts shall be held respectively, and of all grand juries in the performance of their duties under the laws of this State speci-

ally to inquire concerning the commission of any act of perjury mentioned or made punishable by this or any other ordinance adopted by this convention.

SEC. 4. The courts of this State shall require all jurymen and attorneys to take and subscribe the following oath: "I, \_\_\_\_\_, do solemnly swear [or affirm, as the case may be] that I will support, protect, and defend the Constitution of the United States, and the constitution of the State of Missouri, against all enemies and opposers, whether domestic or foreign; that I will bear true faith, loyalty, and allegiance to the United States, and will not, directly or indirectly, adhere to the enemies or opposers thereof, or of the provisional government of the State of Missouri, by giving them aid and comfort, any ordinance, law, or resolution of any State convention or legislature, or of any order or organization, secret or otherwise, to the contrary notwithstanding; and that I do this with a full and honest determination, pledge, and purpose to keep and perform the same, without any mental reservation or evasion whatever: So help me God." The same oath shall also be taken and subscribed by the president, professors, and curators of the University of the State of Missouri, by all bank officers, common-school teachers who are paid in whole or in part out of funds provided by law, and common-school trustees, by all officers of all incorporated companies of this State, and by all licensed or ordained preachers of the gospel before performing the ceremony of marriage in this State, and filed in any county clerk's office in this State; and every licensed or ordained preacher of the gospel who shall perform the ceremony of marriage in this State before taking said oath, and every other person aforesaid assuming to discharge the duties pertaining to his avocation under the laws of this State, without complying with the provisions of this section, shall be liable to prosecution in any court of competent jurisdiction in this State, by indictment, and upon conviction shall be punished for each offence by a fine not less than ten nor more than two hundred dollars. This section shall take effect ninety days from the passage of this ordinance.

SEC. 5. That judges and clerks of all elections held under the laws of this State, shall, in addition to taking the oath required by existing laws, take the further oath that they will not record, nor permit to be recorded, the name of any voter who has not first taken the oath required to be taken by the first section of this ordinance.

SEC. 6. The general assembly of this State may at any time repeal this ordinance, or any part thereof.

Adopted June 10, 1862.

#### CONTINUING THE PROVISIONAL GOVERNMENT IN OFFICE

*Be it ordained by the people of the State of Missouri, in convention assembled:*

That the governor, lieutenant-governor, and secretary of state, heretofore appointed by this convention, shall continue in office until the first Monday in August, A. D. 1864, and until their successors are duly elected and qualified, and shall discharge the duties and exercise the privileges which pertain to their respective offices.

Adopted, June 11, 1862.

ENABLING CITIZENS OF MISSOURI IN THE MILITARY SERVICE OF THE  
UNITED STATES OR THE STATE TO VOTE

*Be it ordained by the people of the State of Missouri in convention assembled, as follows, to wit:*

SECTION 1. That the commanding officer of any company of Missouri volunteers, or militia in the service of the United States or of the State of Missouri, any of the members of which are qualified voters under the laws of this State, shall, on the day of the next general election, and at every subsequent election held under the laws of this State during the present war, cause an election to be held by the members of such company for officers to be elected at such election.

SEC. 2. The commanders of such companies shall cause a sufficient number of poll-books to be made out for each company, properly laid off into blanks, with the necessary heading and certificates attached, and cause them to be delivered to the judges of election on or before the day of such election.

SEC. 3. Three good, discreet, and disinterested persons, members of such company, being qualified voters under the laws of this State, shall be appointed judges of such elections by such commanding officers, who shall administer the following oath to such judges before they enter on their duties: "I do solemnly swear [or affirm] that I will impartially discharge the duties of judge of the present election, according to law and the best of my abilities: So help me God."

SEC. 4. Said judges shall appoint two clerks, who, before entering on the duties of their appointment, shall take an oath or affirmation, to be administered by one of the persons so appointed as judges of the election, that they will faithfully record the names of all the voters, and distinctly carry out, in lines and columns, the name of the person for whom each voter votes.

SEC. 5. At the close of each election the judges shall certify, under their hands, the number of votes given for each candidate, which shall be attested by their clerks, and transmit the same, together with one of the poll-books, by one of their clerks, or by mail, to the clerk of the county court in which the voters are entitled to vote, without delay.

SEC. 6. Poll-books shall be opened for each county from which there are members in such company entitled to vote, and at such election only such persons shall be allowed to vote as could vote under existing laws if in their proper precincts, which vote shall be taken and sent to their proper county, as provided in this ordinance.

SEC. 7. When more than one company votes at the same post or station, or belonging to the same battalion, regiment, or division of the Army, the judges of said elections may cause one messenger to carry the poll-books to the different counties.

SEC. 8. Any one of the judges of election under this ordinance is authorized to administer oaths to test the qualifications of voters and to prevent frauds.

SEC. 9. Each clerk of the county court shall, in not less than fifteen nor more than twenty days after the election, take to his assistance two justices of the peace of his county, or two justices of the county court, and examine and cast up the votes given for each candidate, including the votes received by virtue of this ordinance, and give to those having the highest number of votes a certificate of election.

SEC. 10. The votes given at such company elections shall be given *viva voce*, or by tickets handed to the judges, and shall in both cases be cried in an audible voice by one of the judges of the election, or by some person appointed by such judges for that purpose, and noted by the clerks in the presence and hearing of the voters.

SEC. 11. Judges and clerks of said company elections failing or neglecting to discharge any duty required by this ordinance, or the laws now in force, shall be subject to the penalties prescribed by law, and may be prosecuted in the county to which such returns are required to be made.

SEC. 12. Every person not being a qualified voter according to the constitution and laws of the State, who shall vote at any election under this ordinance, or any person who shall, at the same election, vote more than once, either at the same or different places of voting, shall, upon conviction, be adjudged guilty of a misdemeanor, and be punished by fine not exceeding fifty dollars, nor less than twenty dollars, or by imprisonment in the county jail not exceeding three months, and shall be liable to indictment and conviction in any county to which such poll-books, or any of them, shall be returned.

SEC. 13. All persons voting under this ordinance shall be required to take the oath prescribed by the ordinance of this convention, testing the loyalty of the voter.

SEC. 14. The election returns of votes cast at the different precincts in the counties shall be made to county clerks, in all respects according to the statute laws now in force, except as provided in this ordinance; and all acts required to be done under existing laws within a given time after examining and casting up the books, shall be done within the time required by existing laws, after the time fixed for examining and casting up the poll-books under the ninth section of this ordinance.

SEC. 15. Any officer, or other person, in the service or employment of the United States or the State of Missouri, being a qualified voter under the constitution and laws of this State, may vote at any election held under the provisions of this ordinance, subject to the restrictions and limitations provided by this ordinance.

SEC. 16. This ordinance shall be in force from and after its passage, and is subject to repeal at any time by the general assembly of this State.

Adopted, June 12, 1862.

#### RELATING TO VOTING IN CERTAIN COUNTIES

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows, to wit:*

SECTION 1. In any county where there is a county court, or where such court fails to appoint judges of election, and in counties where there is no county clerk, or such clerk fails to cause poll-books to be delivered to the judges of election before the day of the election, any person may prepare the poll-books for any or all of the townships in such county, and a majority of the qualified voters present at the time and place of opening the polls, which shall be at the same place, as near as may be, as the elections were authorized to be for members of this convention, shall choose judges of the election; and in case no officer is present authorized to administer the oath of office to such



judges, one of the persons so chosen may administer the oath required by law to such judges, one of whom, after being so sworn, shall administer the oath to the judge by whom he was so sworn.

SEC. 2. Such judges of election shall appoint two clerks, and shall have all the powers and perform all the duties of judges of election under existing laws, and shall return the poll-books to the county seat in the time and manner required by the next section.

SEC. 3. On the first Saturday after the election, one of the judges of election from each township in such county shall repair to the county seat, and organize a board composed of such judges, and said board, when so organized, shall proceed to cast up the votes given in such election, certify the same, and grant certificates of election, and in all respects shall have the same powers and perform the same duties that the county clerk and two justices of the county court or justices of the peace are required to perform, or that the county clerk is required to perform, under existing laws governing elections.

SEC. 4. Such election shall be as valid to all intents and purposes as though it had been done by the ordinary officers under existing laws.

SEC. 5. Such judges of election shall retain the poll-books of such election until there is a county clerk qualified to act in such county. Such poll-books shall be filed in the county clerk's office, and the clerk's receipt taken for the same.

SEC. 6. The secretary of state shall cause the ordinances passed at this session of the convention, in relation to voters and elections, to be published in pamphlet form and distributed without delay to the county clerks of the different counties, and in counties where there is no clerk, to members of this convention, or other citizens, in such numbers as he may deem sufficient.

SEC. 7. If in any county no election shall be held for sheriff, coroner, county-court justices, and other township and county officers, the vacancies so caused, with the exception of members of the general assembly, shall be filled by the proper authorities, under existing laws; but in all cases of failure by the proper authorities to appoint persons to fill such vacancies within twenty days after the vacancy occurs, then the governor shall appoint officers to fill such vacancies as have not been filled by the proper authorities; and all officers appointed to fill vacancies as aforesaid shall hold their said offices for the same time as if they had been elected under existing laws.

SEC. 8. In counties where there are no county clerks, any candidate may file the oath required by ordinance with the board of judges herein provided for, and said board shall cast up and certify the vote given for each candidate that complies with this section the same as if said oath had been filed in the time and manner required by the ordinance heretofore passed; and said affidavits shall be filed, together with the poll-books, in the county clerk's office.

SEC. 9. Judges and clerks of election under this ordinance shall perform all the duties and be subject to all the penalties prescribed by existing laws.

SEC. 10. This ordinance shall be in force from and after its passage, and may be repealed at any time by the general assembly of this State.

Adopted, June 13, 1862.

## AMENDING THE THIRD ARTICLE OF THE STATE CONSTITUTION

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

The eighth section of the third article of the constitution is hereby abolished, and the following adopted in lieu thereof:

After the first day of July, one thousand eight hundred and sixty-two, all general elections shall commence [take place] on the Tuesday next after the first Monday in November, and shall be held biennially; and the electors in all cases, except of [for] treason, felony, or breach of the peace, shall be privileged from arrest during their continuance at elections, and in going to and returning from the same.

Adopted, June 13, 1862.

## REQUIRING STATE SENATORS TO BE DIVIDED INTO CLASSES

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

That at the next session of the general assembly, the State senators shall be divided by lot into classes, as provided in the seventh section of the third article of the constitution, and every election to fill a vacancy in the senate shall be for the residue of the term only.

Adopted, June 13, 1862.

## CHANGING THE TIME OF HOLDING ELECTIONS FOR JUDGES

*Be it ordained by the people of Missouri, in convention assembled, as follows:*

SECTION 1. That so much of the sixth and seventh articles of the amendments to the constitution of this State, ratified at the session of the legislature of 1850 and 1851, as provides that the elections of supreme and circuit court judges shall be held on the first Monday in August, A. D. eighteen hundred and fifty-one, and on the first Monday in August every six years thereafter, is hereby abolished.

SEC. 2. The first general election for supreme and circuit court judges hereafter to be held under said amendments to the constitution shall be on the Tuesday next after the first Monday in November, A. D. eighteen hundred and sixty-three, and on the first Tuesday next after the first Monday in November every six years thereafter, any law, constitution, or ordinance of this convention to the contrary notwithstanding.

SEC. 3. Whatever election of judges or clerks of courts and other officers may now be fixed by law, or by order of any court, for the first Monday of August, eighteen hundred and sixty-three, shall be held on the Tuesday next after the first Monday of November, eighteen hundred and sixty-three.

Adopted, June 26, 1863.

## PROVIDING FOR SUPPLYING THE VACANCY EXISTING IN THE OFFICE OF JUDGE

*Be it ordained by the people of the State of Missouri, in convention assembled, as follows:*

The governor shall appoint a judge for the fourteenth judicial circuit, to supply the vacancy now existing, which judge shall hold

his office until Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-three, and until his successor is duly elected and qualified.

Adopted, June 27, 1863.

PROVIDING FOR THE EMANCIPATION OF SLAVES

*Be it ordained by the people of the State of Missouri, in convention assembled:*

SECTION 1. The first and second clauses of the twenty-sixth section of the third article of the constitution are hereby abrogated.

SEC. 2. That slavery and involuntary servitude, except for the punishment of crime, shall cease to exist in Missouri on the fourth day of July, eighteen hundred and seventy; and all slaves within the State at that day are hereby declared to be free: *Provided, however,* That all persons emancipated by this ordinance shall remain under the control and be subject to the authority of their late owners, representatives, and assigns, as servants, during the following periods, to wit: those over forty years of age, for and during their lives; those under twelve years of age, until they arrive at the age of twenty-three years; and those of all other ages, until the fourth day of July, eighteen hundred and seventy-six. The persons, or their legal representatives, who, up to the moment of emancipation, were the owners of the slaves thereby freed, shall, during the period for which the services of such freedmen are reserved to them, have the same authority and control over the said freedmen, for the purpose of securing the possession and services of the same, that are now held absolutely by the master in respect of his slaves: *Provided, however,* That after the said fourth day of July, eighteen hundred and seventy, no person so held to service shall be sold to a non-resident of or removed from the State of Missouri, by the authority of his late owner or his legal representatives.

SEC. 3. That all slaves hereafter brought into this State, and not now belonging to citizens of this State, shall thereupon be free.

SEC. 4. All slaves removed by consent of their owners to any seceded State after the passage by such State of an act or ordinance of secession, and hereafter brought into this State by their owners, shall thereupon be free.

SEC. 5. The general assembly shall have no power to pass laws to emancipate slaves without the consent of their owners.

SEC. 6. After the passage of this ordinance, no slaves in this State shall be subject to State, county, or municipal taxes.

Adopted, July 1, 1863.

**CONSTITUTION OF MISSOURI—1865 \* a**

We, the people of the State of Missouri, grateful to Almighty God, the sovereign ruler of nations, for our State government, our liberties, and our connection with the American Union, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this State, ordain and establish this revised and amended Constitution:

**ARTICLE I****DECLARATION OF RIGHTS**

That the general, great, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare—

1. That we hold it to be self-evident that all men are endowed by their Creator with certain inalienable rights, among which are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

2. That there cannot be in this State either slavery or involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted.

3. That no person can, on account of color, be disqualified as a witness or be disabled to contract otherwise than as others are disabled, or be prevented from acquiring, holding, and transmitting property, or be liable to any other punishment for any offence than that imposed upon others for a like offence, or be restricted in the exercise of religious worship, or be hindered in acquiring education, or be subjected, in law, to any other restraints or disqualifications in regard to any personal rights than such as are laid upon others under like circumstances.

4. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

5. That the people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof and of altering and abolishing their constitution and form of government whenever it may be necessary to their safety and happiness, but every such right should be exercised in pursuance of law and consistently with the Constitution of the United States.

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\* Journal of the Missouri State Convention, held at The City of St. Louis. January 6–April 10, 1865. St. Louis, Missouri Democrat, Print, corner Fourth and Pine Sts. 1865. Appendix pp. 255–277.

<sup>a</sup> A constitution, which was framed by a convention which met at Jefferson City November 7, 1845, and adjourned January 14, 1846, was rejected by the people.

The constitution of 1865 was framed by a convention which met at Saint Louis January 6, 1865, and completed its labors April 10, 1865. It was ratified by the people January 6, 1865, receiving 43,670 votes against 41,808 votes.

6. That this State shall ever remain a member of the American Union; that the people thereof are a part of the American nation; and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union or to sever said nation ought to be resisted with the whole power of the State.

7. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of this State in contravention or subversion thereof can have any binding force.

8. That the people have the right peaceably to assemble for their common good, and to apply to those vested with the powers of government for redress of grievances, by petition or remonstrance; and that their right to bear arms in defence of themselves and of the lawful authority of the State cannot be questioned.

9. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no person can on account of his religious opinions be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying or from serving as a juror; that no human authority can control or interfere with the rights of conscience, and that no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness nor to justify practices inconsistent with the good order, peace, or safety of the State, or with the rights of others.

10. That no person can be compelled to erect, support, or attend any place of worship, or maintain any minister of the gospel or teacher of religion; but whatever contracts any person may enter into for any such object ought, in law, to be binding and capable of enforcement, as other contracts.

11. That no preference can ever be given, by law, to any church, sect, or mode of worship.

12. That no religious corporation can be established in this State; except that by a general law, uniform throughout the State, any church, or religious society, or congregation, may become a body-corporate, for the sole purpose of acquiring, holding, using, and disposing of so much land as may be required for a house of public worship, a chapel, a parsonage, and a burial-ground, and managing the same, and contracting in relation to such land, and the buildings thereon, through a board of trustees, selected by themselves; but the quantity of land to be held by any such body-corporate, in connection with a house of worship or a parsonage, shall not exceed five acres in the country, or one acre in a town or city.

13. That every gift, sale, or devise of land to any minister, public teacher, or preacher of the gospel, as such, or to any religious sect, order, or denomination; or to or for the support, use, or benefit of, or in trust for, any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination; and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use, or benefit; and also every devise of goods or chattels, to or for the support, use,



or benefit of any minister, public teacher, or preacher of the gospel, as such, or any religious sect, order, or denomination, shall be void; except always any gift, sale, or devise of land to a church, religious society, or congregation, or to any person or persons in trust for the use of a church, religious society, or congregation, whether incorporated or not, for the uses and purposes, and within the limitations, of the next preceding clause of this article.

14. That all elections ought to be free and open.

15. That courts of justice ought to be open to every person, and certain remedy afforded for every injury to person, property, or character; and that right and justice ought to be administered without sale, denial, or delay.

16. That no private property ought to be taken or applied to public use without just compensation.

17. That the right of trial by jury shall remain inviolate.

18. That in all criminal prosecutions the accused has the right to be heard by himself and his counsel; to demand the nature and cause of accusation; to have compulsory process for witnesses in his favor; to meet the witnesses against him face to face; and, in prosecutions on presentment or indictment, to a speedy trial by an impartial jury of the vicinage; that the accused cannot be compelled to give evidence against himself, nor be deprived of life, liberty, or property but by the judgment of his peers or the law of the land.

19. That no person, after having been once acquitted by a jury, can, for the same offence, be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury, and commit or bail the accused for trial at the next term of said court.

20. That all persons shall be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great.

21. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

22. That the privilege of the writ of *habeas corpus* cannot be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

23. That the people ought to be secure in their persons, papers, houses, and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, can issue, without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation.

24. That no person can, for an indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service in the time of war or public danger, or by leave of court, for oppression or misdemeanor in office.

25. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort.

26. That no person can be attainted of treason or felony by the general assembly; that no conviction can work corruption of blood;

that there can be no forfeiture of estate for any crime, except treason; and that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death.

27. That the free communication of thoughts and opinions is one of the invaluable rights of man, and that every person may freely speak, write, and print on any subject, being responsible for the abuse of that liberty; that in all prosecutions for libel, the truth thereof may be given in evidence, and the jury may determine the law and the facts, under the direction of the court.

28. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation; can be passed.

29. That imprisonment for debt cannot exist in this state, except for fines or penalties imposed for violation of law.

30. That all property subject to taxation ought to be taxed in proportion to its value.

31. That no title of nobility, or hereditary emolument, privilege, or distinction, can be granted.

32. That the military is, and in all cases and at all times ought to be, in strict subordination to the civil power; that no soldier can, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in such manner as may be prescribed by law; nor can any appropriation for the support of an army be made for a longer period than two years.

## ARTICLE II

### RIGHT OF SUFFRAGE

SECTION 1. All elections by the people shall be by ballot. No election shall continue longer than one day, except as provided in the twenty-first section of this article.

SEC. 2. General elections shall be held biennially, on the Tuesday next after the first Monday in November. The first general election under this constitution shall be held on that day, in the year one thousand eight hundred and sixty-six. Should Congress direct the appointment of electors of President and Vice-President of the United States on any other day than that now established, the general assembly may change the time of holding general elections, so as to provide for holding them on the day which may be designated by Congress for that purpose, and on the corresponding day two years thereafter. No special election, State, county, or municipal, shall be appointed to be held on a Monday.

SEC. 3. At any election held by the people under this constitution, or in pursuance of any law of this State, or under any ordinance or by-law of any municipal corporation, no person shall be deemed a qualified voter who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the government of this State; or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility; or has ever, in any manner, adhered to the enemies, foreign or domestic, of the United States, either by contributing to them or by unlawfully sending within their lines money, goods, letters, or information; or has ever disloyally held communication with such enemies; or has ever advised or aided

any person to enter the service of such enemies; or has ever, by act or word, manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion, submitted to the authority, or been in the service, of the so-called "Confederate States of America;" or has ever left this State, and gone within the lines of the armies of the so-called "Confederate States of America," with the purpose of adhering to said States or armies; or has ever been a member of, or connected with, any order, society, or organization, inimical to the Government of the United States, or to the government of this State; or has ever been engaged in guerrilla warfare against loyal inhabitants of the United States, or in that description of marauding commonly known as "bush-whacking;" or has ever knowingly and willingly harbored, aided, or countenanced any person so engaged; or has ever come into or left this State, for the purpose of avoiding enrolment for or draft into the military service of the United States; or has ever, with a view to avoid enrolment in the militia of this State, or to escape the performance of duty therein, or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer, as disloyal, or as a southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion; or, having ever voted at any election by the people in this State, or in any other of the United States, or in any other of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State, or in the Army of the United States; nor shall any such person be capable of holding in this State any office of honor, trust, or profit under its authority; or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority; or of acting as a professor or teacher in any educational institution, or in any common or other school; or of holding any real estate or other property in trust for the use of any church, religious society, or congregation. But the foregoing provisions in relation to acts done against the United States shall not apply to any person not a citizen thereof, who shall have committed such acts while in the service of some foreign country at war with the United States, and who has, since such acts, been naturalized, or may hereafter be naturalized, under the laws of the United States; and the oath of loyalty hereinafter prescribed, when taken by any such person, shall be considered as taken in such sense.

SEC. 4. The general assembly shall immediately provide by law for a complete and uniform registration, by election districts, of the names of qualified voters in this State; which registration shall be evidence of the qualification of all registered voters to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the general

assembly shall have passed an act of registration, and the same shall have been carried into effect; after which no person shall vote unless his name shall have been registered at least ten days before the day of the election, and the fact of such registration shall be no otherwise shown than by the register, or an authentic copy thereof, certified to the judges of election by the registering officer or officers, or other constituted authority. A new registration shall be made within sixty days next preceding the tenth day prior to every biennial general election; and after it shall have been made, no person shall establish his right to vote by the fact of his name appearing on any previous register.

SEC. 5. Until such a system of registration shall have been established, every person shall, at the time of offering to vote, and before his vote shall be received, take an oath in the terms prescribed in the next succeeding section. After such a system shall have been established, the said oath shall be taken and subscribed by the voter at each time of his registration. Any person declining to take said oath shall not be allowed to vote or to be registered as a qualified voter. The taking thereof shall not be deemed conclusive evidence of the right of the person to vote, or to be registered as a voter; but such right may, notwithstanding, be disproved. And after a system of registration shall have been established, all evidence for and against the right of any person as a qualified voter shall be heard and passed upon by the registering officer or officers, and not by the judges of election. The registering officer or officers shall keep a register of the names of persons rejected as voters, and the same shall be certified to the judges of election; and they shall receive the ballot of any such rejected voter offering to vote, marking the same and certifying the vote thereby given, as rejected; but no such vote shall be received unless the party offering it take, at the time, the oath of loyalty hereinafter prescribed.

SEC. 6. The oath to be taken as aforesaid shall be known as the oath of loyalty, and shall be in the following terms:

“I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted in the year eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof, as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; that I will support the constitution of the State of Missouri; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me.”

SEC. 7. Within sixty days after this constitution takes effect, every person in this State holding any office of honor, trust, or profit under the constitution or laws thereof, or under any municipal corporation, or any of the other offices, positions, or trusts mentioned in

the third section of this article, shall take and subscribe the said oath. If any officer or person referred to in this section shall fail to comply with the requirements thereof, his office, position, or trust shall, *ipso facto*, become, vacant, and the vacancy shall be filled according to the law governing the case.

SEC. 8. No vote in any election by the people shall be cast up for, nor shall any certificate of election be granted to, any person, who shall not, within fifteen days next preceding such election, have taken, subscribed, and filed said oath.

SEC. 9. No person shall assume the duties of any State, county, city, town, or other office, to which he may be appointed, otherwise than by a vote of the people; nor shall any person, after the expiration of sixty days after this constitution takes effect, be permitted to practise as an attorney or counsellor at law; nor, after that time, shall any person be competent as a bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect, or denomination, to teach or preach, or solemnize marriages, unless such person shall have first taken, subscribed, and filed said oath.

SEC. 10. Oaths taken in pursuance of the seventh, eighth, and ninth sections of this article shall be filed as follows: by a State civil officer, or a candidate for a State civil office, and by members and officers of the present general assembly, in the office of the secretary of state; by a military officer, in the office of the adjutant-general; by a candidate for either house of the general assembly, in the clerk's office of the county court of the county of his residence, or in that of the county where the vote of the district is required by law to be cast up, and the certificate of election granted; by a city or town officer, in the office where the archives of such city or town are kept; and in all other cases, in the office of the clerk of the county court of the county of the person's residence.

SEC. 11. Every court in which any person shall be summoned to serve as a grand or petit juror shall require him, before he is sworn as a juror, to take such oath, in open court; and no person refusing to take the same shall serve as a juror.

SEC. 12. If any person shall declare that he has conscientious scruples against taking an oath, or swearing in any form, the said oath may be changed into a solemn affirmation, and be made by him in that form.

SEC. 13. In addition to the oath of loyalty aforesaid, every person who may be elected or appointed to any office shall, before entering upon its duties, take and subscribe an oath or affirmation that he will to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the constitution and laws of this State.

SEC. 14. Whoever shall, after the times limited in the seventh and ninth sections of this article, hold or exercise any of the offices, positions, trusts, professions, or functions therein specified, without having taken, subscribed, and filed said oath of loyalty, shall, on conviction thereof, be punished by fine, not less than five hundred dollars, or by imprisonment in the county jail not less than six months, or by both such fine and imprisonment; and whoever shall take said oath falsely, by swearing or by affirmation, shall, on conviction thereof, be adjudged guilty of perjury, and be punished by imprisonment in the penitentiary not less than two years.



SEC. 15. Whoever shall be convicted of having directly or indirectly given or offered any bribe to procure his election or appointment to any office shall be disqualified for any office of honor, trust, or profit under this State; and whoever shall give or offer any bribe to procure the election or appointment of any other person to any office shall, on conviction thereof, be disqualified for a voter, or any office of honor, trust, or profit under this State, for ten years after such conviction.

SEC. 16. No officer, soldier, or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

SEC. 17. No person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election shall vote at such election.

SEC. 18. Every white male citizen of the United States, and every white male person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who is not disqualified by or under any of the provisions of this constitution, and who shall have complied with its requirements, and have resided in this State one year next preceding any election, or next preceding his registration as a voter, and during the last sixty days of that period shall have resided in the county, city, or town where he offers to vote, or seeks registration as a voter, shall be entitled to vote at such election for all officers, State, county, or municipal, made elective by the people; but he shall not vote elsewhere than in the election district of which he is at that time a resident, or, after a system of registration of votes shall have been established in the election district where his name is registered, except as provided in the twenty-first section of this article.

SEC. 19. After the first day of January, one thousand eight hundred and seventy-six, every person who was not a qualified voter prior to that time shall, in addition to the other qualifications required, be able to read and write in order to become a qualified voter; unless his inability to read or write shall be the result of a physical disability.

SEC. 20. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas nor while a student in any seminary of learning nor while kept at any poor-house or other asylum at public expense nor while confined in any public prison.

SEC. 21. Any qualified voter under the eighteenth section of this article, who may be absent from the place of his residence by reason of being in the volunteer army of the United States, or in the militia force of this State, in the service thereof, or of the United States, whether within or without the State, shall, without registration, be entitled to vote in any election occurring during such absence. The votes of all such persons, wherever they may be, may be taken on the day fixed by law for such election, or on any day or days within twenty days next prior thereto; and the general assembly shall provide by law for the taking, return, and counting of such votes. Every such person shall take the same oath that all other voters may be required to take in order to vote.

SEC. 22. Voters shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their continuance at election and in going to and returning from the same.

SEC. 23. Any person who may at any time have done any act which, under the third section of this article, has disqualified or may disqualify him, as therein expressed, and who shall, after the commission of such act, have voluntarily entered the military service of the United States, and have been honorably discharged therefrom, and after such discharge have demeaned himself in all respects as a loyal and faithful citizen, may be relieved from such disqualification. In order thereto, he shall, in person, present his petition to the circuit court of the county of his residence, stating specifically the act or acts which produced such disqualification, and the grounds upon which he prays to be relieved therefrom; and the court shall set a day for hearing the cause, not less than five days after the presentation of the petition; when, if it appear by competent proof that the petitioner is justly entitled to the relief prayed for, the court shall make a decree removing such disqualification. But any act done by such person after the date of such decree, which would impose a disqualification under the said third section of this article, shall make such decree null and void, and remit him to his previous condition of disqualification; and no such decree shall be granted a second time in his favor.

SEC. 24. After any person shall have been relieved by the decree of a circuit court, he shall, in order to vote or hold any of the offices, positions, or trusts, or exercise any of the privileges or functions hereinbefore specified, take the oath of loyalty aforesaid, except the part thereof which refers to the third section of this article and to the past acts or loyalty of the person taking the oath.

SEC. 25. After the first day of January, one thousand eight hundred and seventy-one, and until the date hereinafter named, the general assembly shall have power, if a majority of all the members elected to both houses concur therein, to suspend or repeal any part of the third, fifth, and sixth sections of this article, so far as the same relate to the qualification of voters, but no further. After the first day of January, one thousand eight hundred and seventy-five, the general assembly may wholly suspend or repeal the third, fourth, fifth, sixth, eighth, ninth, tenth, eleventh, and twelfth sections of this article, or any part thereof, if a like majority of both houses concur therein. But no such suspension or repeal shall have the effect of dispensing with the taking, by every person elected or appointed to any office in this State, of so much of the oath of loyalty aforesaid as follows the word "domestic." On the passage of any bill suspending or repealing any of said sections, or any part thereof, the votes of both houses shall be taken by yeas and nays, and entered on the journals of the houses, respectively. The general assembly shall also have power, at any time, to remove any such suspension or repeal, and reinstate the provisions suspended or repealed, in full force and effect as a part of this constitution. Every suspension or repeal made in pursuance of this section shall be general in its terms, and not in any case in favor of any named person; but the general assembly may except from the benefit of such suspension or repeal any person or class of persons it may see fit.

SEC. 26. The general assembly shall provide for the exclusion from every office of honor, trust, or profit within this State, and from the right of suffrage, of any person convicted of bribery, perjury, or other infamous crime.

### ARTICLE III

#### DISTRIBUTION OF POWERS

The powers of government shall be divided into three distinct departments, each of which shall be confided to a separate magistracy: and no person charged with the exercise of powers properly belonging to one of those departments shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

### ARTICLE IV

#### LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power shall be vested in a general assembly, which shall consist of a senate and a house of representatives.

SEC. 2. The house of representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner:

The ratio of representation shall be ascertained at each apportioning session of the general assembly, by dividing the whole number of permanent inhabitants of the State by the number two hundred. Each county having one ratio, or less, shall be entitled to one representative; each county having three times said ratio shall be entitled to two representatives; each county having six times said ratio shall be entitled to three representatives; and so on above that number, giving one additional member for every three additional ratios. When any county shall be entitled to more than one representative, the county court shall cause such county to be subdivided into as many compact and convenient districts as such county may be entitled to representatives; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one representative, who shall be a resident of such district.

SEC. 3. No person shall be a member of the house of representatives who shall not have attained the age of twenty-four years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State two years, and an inhabitant of the county which he may be chosen to represent one year next before the day of his election, if such county shall have been so long established; but if not, then of the county from which the same shall have been taken; and who shall not have paid a State and county tax.

SEC. 4. The senate shall consist of thirty-four members, to be chosen by the qualified voters for four years; for the election of whom the State shall be divided into convenient districts.

SEC. 5. No person shall be a senator who shall not have attained the age of thirty years; who shall not be a white male citizen of the United States; who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen

to represent one year next before the day of his election, if such district shall have been so long established; but if not, then of the district or districts from which the same shall have been taken; and who shall not have paid a State and county tax. When any county shall be entitled to more than one senator, the county court shall cause such county to be subdivided into as many compact and convenient districts as such county may be entitled to senators; which districts shall be, as near as may be, of equal population; and the qualified voters of each of such districts shall elect one senator, who shall be a resident of such district.

SEC. 6. Senators shall be apportioned among their respective districts, as nearly as may be, according to the number of permanent inhabitants in each.

SEC. 7. Senators and representatives shall be chosen according to the rule of apportionment established in this constitution, until the next decennial census taken by the United States shall have been made, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census. In the year one thousand eight hundred and seventy-six, and every tenth year thereafter, there shall be taken, under the authority of this State, a census of the inhabitants thereof; and after every such census the apportionment of senators and representatives may be based thereon, until the next succeeding national census; after which it may be based upon the national census, until the next succeeding decennial State census; and so on, from time to time, the enumerations made by the United States and this State shall be used, as they respectively occur, as the basis of apportionment.

SEC. 8. Senatorial and representative districts may be altered, from time to time, as public convenience may require. When any senatorial district shall be composed of two or more counties, they shall be contiguous.

SEC. 9. The first election of senators and representatives under this constitution shall be held at the general election in the year one thousand eight hundred and sixty-six, when the whole number of senators and representatives shall be chosen.

SEC. 10. At the regular session of the general assembly chosen at said election, the senators shall be divided into two equal classes. Those elected from districts bearing odd numbers shall compose the first class, and those elected from districts bearing even numbers shall compose the second class. The seats of the first class shall be vacated at the end of the second year after the day of said election, and those of the second class at the end of the fourth year after that day; so that one-half of the senators shall be chosen every second year. In districting any county for the election of senators, the districts shall be numbered, so as to effectuate the division of senators into classes, as required in this section.

SEC. 11. No member of Congress, or person holding any lucrative office under the United States or this State (militia officers, justices of the peace, and notaries public excepted) shall be eligible to either house of the general assembly, or shall remain a member thereof after having accepted any such office, or a seat in either House of Congress.

SEC. 12. No person who now is or may hereafter be a collector or holder of public money, or assistant or deputy of such collector or

holder of public money, shall be eligible to either house of the general assembly until he shall have accounted for and paid all sums for which he may be accountable.

SEC. 13. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

SEC. 14. The governor shall issue writs of election to fill such vacancies as may occur in either house of the general assembly.

SEC. 15. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during his continuance in office as a senator or representative, except to such offices as shall be filled by elections of the people.

SEC. 16. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 17. The members of the general assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law; but no law increasing such compensation shall take effect in favor of the members of the general assembly by which the same shall have been passed.

SEC. 18. A majority of the whole number of members of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 19. Each house shall appoint its own officers; shall judge of the qualifications, elections, and returns of its own members; may determine the rules of its proceedings; may arrest and punish, by fine not exceeding three hundred dollars, or by imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly behavior; and, with the concurrence of two-thirds or all the members elected, may expel a member; but no member shall be expelled a second time for the same cause.

SEC. 20. Each house shall, from time to time, publish a journal of its proceedings, except such parts thereof as may, in its opinion, require secrecy; and the yeas and nays on any question shall be taken and entered on the journal, at the desire of any two members. Whenever the yeas and nays are demanded the whole list of members shall be called, and the names of absentees shall be noted, and published with the journal.

SEC. 21. The sessions of each house shall be held with open doors, except in cases which may require secrecy.

SEC. 22. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.



SEC. 23. Bills may originate in either house, and may be altered, amended, or rejected by the other; and every bill shall be read on three different days in each house, unless two-thirds of the house where the same is pending shall dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker of the house of representatives and by the president of the senate.

SEC. 24. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly; and the question upon the final passage shall be taken immediately upon the last reading; and the yeas and nays shall be taken thereon and entered upon the journal.

SEC. 25. No act shall be revived or reenacted by mere reference to the title thereof; nor shall any act be amended by providing that designated words thereof shall be struck out, or that designated words shall be struck out and others inserted in lieu thereof; but in every such case the act revived or reenacted, or the act, or part of act, amended, shall be set forth and published at length, as if it were an original act or provision.

SEC. 26. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Missouri, as follows:*"

SEC. 27. The general assembly shall not pass special laws divorcing any named parties; or declaring any named person of age; or authorizing any named minor to sell, lease, or incumber his or her property; or providing for the sale of the real estate of any named minor or other person, laboring under legal disability, by any executor, administrator, guardian, trustee, or other person; or changing the name of any person; or establishing, locating, altering the course, or affecting the construction of roads, or the building or repairing of bridges; or establishing, altering, or vacating any street, avenue, or alley in any city or town; or extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties; or giving effect to informal or invalid wills or deeds; or legalizing, except as against the State, the unauthorized or invalid acts of any officer; or granting to any individual or company the right to lay down railroad tracks in the streets of any city or town; or exempting any property of any named person or corporation from taxation. The general assembly shall pass no special law for any case for which provision can be made by a general law; but shall pass general laws providing, so far as it may deem necessary for the cases enumerated in this section, and for all other cases where a general law can be made applicable.

SEC. 28. The general assembly shall never authorize any lottery; nor shall the sale of lottery-tickets be allowed; nor shall any lottery heretofore authorized be permitted to be drawn, or tickets therein to be sold.

SEC. 29. The general assembly shall have no power to make compensation for emancipated slaves.

SEC. 30. The general assembly shall have no power to remove the county seat of any county, unless two-thirds of the qualified voters of the county, at a general election, shall vote in favor of such removal. No compensation or indemnity for real estate, or the improvements thereon, affected by such removal, shall be allowed.

SEC. 31. The general assembly shall have no power to establish any new county with a territory of less than five hundred square miles, or with a population less than the ratio of representation existing at the time; nor to reduce any county now established to less than that area, or to less population than such ratio.

SEC. 32. No law enacted by the general assembly shall relate to more than one subject, and that shall be expressed in the title; but if any subject embraced in an act be not expressed in the title, such act shall be void only as to so much thereof as is not so expressed.

SEC. 33. The general assembly shall direct, by law, in what manner and in what courts suits may be brought against the State.

SEC. 34. When any officer, civil or military, shall be appointed by the joint or concurrent vote of both houses, or by the separate vote of either house, the vote shall be publicly given *viva voce*, and entered on the journals.

SEC. 35. The general assembly elected in the year one thousand eight hundred and sixty-six shall meet on the first Wednesday of January, one thousand eight hundred and sixty-seven; and thereafter the general assembly shall meet, in regular session, once in every two years; and such meeting shall be on the first Wednesday of January, unless a different day be fixed by law.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive shall be vested in a chief magistrate, who shall be styled "the governor of the State of Missouri."

SEC. 2. The governor shall be at least thirty-five years old, a white male citizen of the United States ten years, and a resident of this State seven years, next before his election.

SEC. 3. The governor elected at the general election in the year one thousand eight hundred and sixty-eight, and each governor thereafter elected, shall hold his office two years, and until a successor be duly elected and qualified. At the time and place of voting for members of the house of representatives, the qualified voters shall vote for a governor, and when two or more persons have an equal number of votes, and a higher number than any other person, the election shall be decided between them by a joint vote of both houses of the general assembly, at their next session.

SEC. 4. The governor shall not be eligible to office more than four years in six.

SEC. 5. The governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States; but he need not command in person, unless advised to do so by a resolution of the general assembly.

SEC. 6. The governor shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offences, except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the general assembly, communicate to that body each case of reprieve, commutation,

or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon, or reprieve, and the reasons for granting the same. He shall take care that the laws be distributed and faithfully executed; and shall be a conservator of the peace throughout the State.

SEC. 7. The governor shall, from time to time, give to the general assembly information relative to the state of the government, and shall recommend to their consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the general assembly by proclamation; wherein he shall state specifically each matter concerning which the action of that body is deemed necessary; and the general assembly shall have no power, when so convened, to act upon any matter not so stated in the proclamation.

SEC. 8. When any office shall become vacant, the governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall be duly elected or appointed, and qualified, according to law.

SEC. 9. Every bill which shall have been passed by both houses of the general assembly, before it becomes a law, shall be presented to the governor for his approbation. If he approve he shall sign it; if not, he shall return it with his objections to the house in which it shall have originated; and the house shall cause the objections to be entered at large on its journals, and shall proceed to reconsider the bill. After such reconsideration, if a majority of all the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall, in like manner, be reconsidered; and if approved by a majority of all the members elected to that house, it shall become a law. In all such cases, the votes of both such houses shall be taken by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if the governor had signed it, unless the general assembly, by its adjournment, shall prevent its return; in which case it shall not become a law, unless the governor, after such adjournment, and within ten days after the bill was presented to him, (Sundays excepted,) shall sign and deposit the same in the office of the secretary of state; in which case it shall become a law, in like manner as if it had been signed by him during the session of the general assembly.

SEC. 10. Every resolution, to which the concurrence of the senate and house of representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this constitution, shall be presented to the governor; and, before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill.

SEC. 11. The governor shall, at stated times, receive for his services an adequate salary, to be fixed by law; which shall neither be increased nor diminished during his continuance in office.

SEC. 12. There shall be a lieutenant-governor, who shall be elected

at the same time, in the same manner, for the same term, and shall possess the same qualifications, as the governor.

SEC. 13. The lieutenant-governor, by virtue of his office, shall be president of the senate. In committee of the whole he may debate on all questions; and when there is an equal division, shall give the casting vote in the senate, and also in joint vote of both houses.

SEC. 14. When the office of governor shall become vacant, by death, resignation, removal from the State, removal from office, refusal to qualify, or otherwise, the lieutenant-governor shall perform the duties, possess the powers, and receive the compensation of the governor, during the remainder of the term for which the governor was elected. When the governor is absent from the State, or is unable, from sickness, to perform his duties, or is under impeachment, the lieutenant-governor shall perform said duties, possess said powers, and receive said compensation, until the governor return to the State, be enabled to resume his duties, or be acquitted. If there be no lieutenant-governor, or if he be absent from the State, disabled by sickness, or under impeachment, the president of the senate *pro tempore*, or, in case of like absence or disability on his part, or of there being no president of the senate *pro tempore*, the speaker of the house of representatives shall assume the office of governor, in the same manner, and with the same powers and compensation, as are prescribed in the case of the office devolving on the lieutenant-governor.

SEC. 15. The lieutenant-governor, or the president of the senate *pro tempore*, while presiding in the senate, shall receive the same compensation as shall be allowed to the speaker of the house of representatives.

SEC. 16. There shall be a secretary of state, a State auditor, a State treasurer, and an attorney-general, who shall be elected by the qualified voters of the State, at the same time, in the same manner, and for the same term of office as the governor. No person shall be eligible to either of said offices unless he be a white male citizen of the United States, and at least twenty-five years old, and shall have resided in this State five years next before his election. The secretary of state, the State auditor, the State treasurer, and the attorney-general shall keep their respective offices at the seat of government, and shall perform such duties as may be required of them by law.

SEC. 17. The returns of all elections of governor, lieutenant-governor, and other State officers shall be made to the secretary of state in such manner as may be prescribed by law.

SEC. 18. Contested elections of governor and lieutenant-governor shall be decided by joint vote of both houses of the general assembly in such manner as may be prescribed by law.

SEC. 19. Contested elections of secretary of state, State auditor, State treasurer, and attorney-general shall be decided before such tribunal, and in such manner as may be by law provided.

SEC. 20. The secretary of state shall be the custodian of the seal of state, and shall authenticate therewith all official acts of the governor, his approbation of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri;" and the emblems and devices thereof heretofore prescribed by law shall not be subject to change.

SEC. 21. The secretary of state shall keep a register of the official acts of the governor, and, when necessary, shall attest them; and shall

lay copies of the same, together with copies of all papers relating thereto, before either house of the general assembly, whenever required to do so.

SEC. 22. There shall be elected by the qualified voters in each county, at the time and places of electing representatives, a sheriff and a coroner. They shall serve for two years, and until a successor be duly elected and qualified, unless sooner removed for malfeasance in office, and shall be ineligible four years in any period of eight years. Before entering on the duties of their office they shall give security in such amount, and in such manner, as shall be prescribed by law. Whenever a county shall be hereafter established, the governor shall appoint a sheriff and a coroner therein, who shall continue in office until the next succeeding general election, and until a successor shall be duly elected and qualified.

SEC. 23. Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same; and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If a vacancy happen in the office of coroner, the same shall be filled, for the remainder of the term, by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

SEC. 24. In all elections for sheriff and coroner, when two or more persons have an equal number of votes, and a higher than any other person, the presiding judge of the county court of the county shall give the casting vote; and all contested elections for the said offices shall be decided by the circuit court of the proper county, in such manner as the general assembly may, by law, prescribe.

SEC. 25. The governor shall commission all officers not otherwise provided by law. All commissions shall run in the name and by the authority of the State of Missouri, be sealed by the State seal, signed by the governor, and attested by the secretary of state.

SEC. 26. The appointment of all officers, not otherwise directed by this constitution, shall be made in such manner as may be prescribed by law.

## ARTICLE VI

### JUDICIAL DEPARTMENT

SECTION 1. The judicial power, as to matters of law and equity, shall be vested in a supreme court, in district courts, in circuit courts, and in such inferior tribunals as the general assembly may, from time to time, establish.

SEC. 2. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this constitution provided.

SEC. 3. The supreme court shall have a general superintending control over all inferior courts of law. It shall have power to issue writs



of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The supreme court shall consist of three judges, any two of whom shall be a quorum; and the said judges shall be conservators of the peace throughout the State.

SEC. 5. The State shall be divided into convenient districts, not to exceed four, in each of which the supreme court shall be held, at such time and place as the general assembly may appoint; and, when sitting in either district, it shall exercise jurisdiction over causes originating in that district only; but the general assembly may direct, by law, that the said court shall be held in one place only.

SEC. 6. The judges of the supreme court shall hold office for the term of six years, and until their successors shall be duly elected and qualified, except as hereinafter provided.

SEC. 7. At the general election in the year one thousand eight hundred and sixty-eight, all the judges of the supreme court shall be elected by the qualified voters of the State, and shall enter upon their office on the first Monday of January next ensuing. At the first session of the court thereafter the judges shall, by lot, determine the duration of their several terms of office, which shall be respectively two, four, and six years; and shall certify the result to the secretary of state. At the general election every two years after said first election, one judge of said court shall be elected, to hold office for the period of six years from the first Monday of January next ensuing. The judge having at any time the shortest term to serve shall be the presiding judge of the court.

SEC. 8. If a vacancy shall happen in the office of any judge of the supreme court, by death, resignation, removal out of the State, or other disqualification, the governor shall appoint a suitable person to fill the vacancy until the next general election occurring more than three months after the happening of such vacancy, when the same shall be filled by election, by the qualified voters of the State, for the residue of the term.

SEC. 9. In case of a tie, or a contested election between the candidates, the same shall be determined in the manner prescribed by law.

SEC. 10. If, in regard to any cause pending in the supreme court, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein, based on such division; but the parties to the cause may agree upon some person, learned in the law, who shall act as special judge in the cause, and who shall therein sit with the court, and give decision, in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge the court shall appoint one.

SEC. 11. The judges of the supreme court shall give their opinion upon important questions of constitutional law, and upon solemn occasions, when required by the governor, the senate, or the house of representatives; and all such opinions shall be published in connection with the reported decisions of said court.

SEC. 12. The State, except the county of Saint Louis, shall be divided into not less than five districts, each of which shall embrace at least three judicial circuits; and in each district a court, to be known as the district court, shall be held at such times and places as may be provided by law. Each district court shall be held by the judges of the circuit courts embraced in the district, a majority of

whom shall be a quorum. The district courts shall, within their respective districts, have like original jurisdiction with the supreme court, and appellate jurisdiction from the final judgments of the circuit courts, and of all inferior courts of record within the district, except probate and county courts. After the establishment of such district courts, no appeal or writ of error shall lie from any circuit court, or inferior court of record, to the supreme court, but shall be prosecuted to the district court, from the final judgment of which an appeal or writ of error may be taken to the supreme court, in such cases as may be provided by law.

SEC. 13. The circuit court shall have jurisdiction over all criminal cases which shall not be otherwise provided for by law; and exclusive original jurisdiction in all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly. It shall hold its terms at such time and place, in each county, as may be by law directed.

SEC. 14. The State shall be divided into convenient circuits, of which the county of Saint Louis shall constitute one, for each of which, except as in the next succeeding section specified, a judge shall be elected by the qualified voters of the respective circuits, and except as hereinafter provided, shall be elected for the term of six years; but may continue in office until his successor shall be elected and qualified; and the judge of each circuit, after his election or appointment, as hereinafter provided, shall reside in, and be a conservator of the peace within the circuit for which he shall be elected or appointed; and if any vacancy shall happen in the office of any circuit judge, by death, resignation, removal out of his circuit, or by any other disqualification, the governor shall, upon being satisfied that a vacancy exists, issue a writ of election to fill such vacancy; provided that said vacancy shall happen at least six months before the next general election for said judge; but if such vacancy shall happen within six months of the general election aforesaid, the governor shall appoint a judge for such circuit; but every election or appointment to fill a vacancy shall be for the residue of the term only. And the general assembly shall provide, by law, for the election of said judges in their respective circuits; and in case of a tie, or contested election between the candidates, the same shall be determined in the manner to be prescribed by law. And the general assembly shall provide by law for the election of said judges, in their respective circuits, to fill any vacancy which shall occur at any time at least six months before a general election for said judges. At the general election in the year one thousand eight hundred and sixty-eight, and at the general election every sixth year thereafter, except as hereinafter provided, all the circuit judges shall be elected and shall enter upon their offices on the first Monday of January next ensuing. No judicial circuit shall be altered or changed at any session of the general assembly next preceding the general election for said judges.

SEC. 15. From and after the first day of January, one thousand eight hundred and sixty-six, the circuit court of the county of Saint Louis shall be composed of three judges, each of whom shall try causes separately, and all, or a majority of whom, shall constitute a court in bank, to decide questions of law, and to correct errors occurring in trials; and, from and after that day, there shall not be

in said county any other court of record having civil jurisdiction, except a probate court and a county court. The additional judges of the circuit court of the county of Saint Louis, authorized by this section, shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices until the next general election of judges of circuit court, when the whole number of the judges of said court shall be elected. At the first session of said court after the judges thereof who may be elected in the year one thousand eight hundred sixty-eight shall have assumed office, the said judges shall, by lot, determine the duration of their several terms of office, which shall be, respectively, two, four, and six years; and shall certify the result to the secretary of state. At the general election every two years, after the election in that year, one judge of said court shall be elected, to hold office for the term of six years from the first Monday of January next ensuing. The general assembly shall have power to increase the number of the judges of said court, from time to time, as the public interest may require. Any additional judges authorized shall hold office for the term of six years, and be elected at a general election, and enter upon their office on the first Monday of January next ensuing.

SEC. 16. The provisions contained in this article, requiring an election to be held to fill a vacancy in the office of judges of the supreme and circuit courts, shall have relation to vacancies occurring after the year one thousand eight hundred and sixty-eight; up to which time any such vacancy shall be filled by appointment by the governor.

SEC. 17. If there be a vacancy in the office of judge of any circuit, or if he be sick, absent, or from any cause unable to hold any term of court of any county of his circuit, such term of court may be held by a judge of any other circuit, and, at the request of the judge of any circuit, any term of court in his circuit may be held by the judge of any other circuit.

SEC. 18. No person shall be elected or appointed a judge of the supreme court nor of a circuit court before he shall have attained to the age of thirty years, and have been a citizen of the United States five years, and a qualified voter of this State three years.

SEC. 19. Any judge of the supreme court or the circuit court may be removed from office on the address of two-thirds of each house of the general assembly to the governor for that purpose; but each house shall state, on its respective journal, the cause for which it shall wish the removal of such judge, and give him notice thereof, and he shall have the right to be heard in his defence, in such manner as the general assembly shall by law direct; but no judge shall be removed in this manner for any cause for which he might have been impeached.

SEC. 20. The judges of the supreme court and the judges of the circuit courts shall, at stated times, receive a compensation for their services, to be fixed by law, which shall not be diminished during the period for which they were elected.

SEC. 21. The circuit court shall exercise a superintending control over all such inferior tribunals as the general assembly may establish, and over justices of the peace in each county in their respective circuits.

SEC. 22. The supreme court and the district courts shall appoint their respective clerks. Clerks of all other courts of record shall be elected by the qualified voters of the county, at a general election, and shall hold office for the term of four years from and after the first Monday of January next ensuing, and until their successors are duly elected and qualified. The first election of such clerks, after the adoption of this constitution, shall be at the general election in the year one thousand eight hundred and sixty-six, any existing law of this State to the contrary notwithstanding.

SEC. 23. Inferior tribunals, to be known as county courts, shall be established in each county for the transaction of all county business. In such courts, or in such other tribunals, inferior to the circuit courts, as the general assembly may establish, shall be vested the jurisdiction of all matters appertaining to probate business, to granting letters testamentary and of administration, to settling the accounts of executors, administrators, and guardians, and to the appointment of guardians, and such other jurisdiction as may be conferred by law.

SEC. 24. No clerk of any court established by this constitution, or by any law of this State, shall apply to his own use, from the fees and emoluments of his office, a greater sum than two thousand five hundred dollars for each year of his official term, after paying out of such fees and emoluments such amounts for deputies and assistants in his office as the court may deem necessary and may allow, but all surplus of such fees and emoluments over that sum, after paying the amounts so allowed, shall be paid into the county treasury for the use of the county. The general assembly shall pass such laws as may be necessary to carry into effect the provisions of this section.

SEC. 25. In each county there shall be appointed or elected as many justices of the peace as the public good may be thought to require. Their powers and duties and their duration in office shall be regulated by law.

SEC. 26. All writs and process shall run, and all prosecutions shall be conducted, in the name of the State of Missouri; all writs shall be tested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

## ARTICLE VII

### IMPEACHMENTS

SECTION 1. The governor, lieutenant-governor, secretary of state, State auditor, State treasurer, attorney-general, and all judges of the courts shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend farther than removal from office, and disqualification to hold any office of honor, trust, or profit under this State.

SEC. 2. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate and when sitting for that purpose the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the presiding judge of the supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the senators present.

## ARTICLE VIII

## BANKS AND CORPORATIONS

SECTION 1. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation any notes, bills, or other paper, or the paper of any other bank, to circulate as money; and the general assembly shall prohibit by law individuals and corporations from issuing bills, checks, tickets, promissory notes, or other paper to circulate as money.

SEC. 2. No law shall be passed reviving or reenacting any act heretofore passed creating any private corporation, where such corporation shall not have been organized and commenced the transaction of its business within one year from the time such act took effect, or within such other time as may have been prescribed in such act for such organization and commencement of business.

SEC. 3. The general assembly shall, at its first session after this constitution goes into effect, enact laws enabling any of the existing banks of issue to reorganize as national banks under the act of Congress and shall also provide for the sale of the stock owned by this State in the Bank of the State of Missouri, upon such terms and conditions as shall be by law established.

SEC. 4. Corporations may be formed under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered, amended, or repealed.

SEC. 5. No municipal corporations, except cities, shall be created by special act and no city shall be incorporated with less than five thousand permanent inhabitants, nor unless the people thereof, by a direct vote upon the question, shall have decided in favor of such incorporation.

SEC. 6. Dues from private corporations shall be secured by such means as may be prescribed by law; but in all cases each stockholder shall be individually liable, over and above the stock by him or her owned, and any amount unpaid thereon, in a further sum at least equal in amount to such stock.

## ARTICLE IX

## EDUCATION

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years.

SEC. 2. Separate schools may be established for children of African descent. All funds provided for the support of public schools shall be appropriated in proportion to the number of children, without regard to color.

SEC. 3. The supervision of public instruction shall be vested in a board of education, whose powers and duties shall be prescribed by law. A superintendent of public schools, who shall be the president of the board, shall be elected by the qualified voters of the State. He



shall possess the qualifications of a State senator, and hold his office for the term of four years, and shall perform such duties and receive such compensation as may be prescribed by law. The secretary of state and attorney-general shall be *ex-officio* members, and, with the superintendent, compose said board of education.

SEC. 4. The general assembly shall also establish and maintain a State university, with departments for instruction in teaching, in agriculture, and in natural science, as soon as the public-school fund will permit.

SEC. 5. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands, and other property now belonging to any fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat or from sales of estrays, or from unclaimed dividends, or distributive shares of the estates of deceased persons, or from fines, penalties, and forfeitures; also, any proceeds of the sales of public lands which may have been, or hereafter may be, paid over to this State, (if Congress will consent to such appropriation;) also, all other grants, gifts, or devises that have been, or hereafter may be, made to this State, and not otherwise appropriated by the terms of the grant, gift, or devise, shall be securely invested and sacredly preserved as a public-school fund, the annual income of which fund, together with so much of the ordinary revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the university in this article provided for, and for no other uses or purposes whatsoever.

SEC. 6. No part of the public-school fund shall ever be invested in the stock, or bonds, or other obligations of any State, or of any county, city, town, or corporation. The stock of the Bank of the State of Missouri now held for school purposes, and all other stocks belonging to any school or university fund, shall be sold, in such manner and at such time as the general assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school-fund, may be invested in the bonds of the United States. All county school-funds shall be loaned upon good and sufficient unincumbered real-estate security, with personal security in addition thereto.

SEC. 7. No township or school district shall receive any portion of the public-school fund, unless a free school shall have been kept therein for not less than three months during the year for which distribution thereof is made. The general assembly shall have power to require, by law, that every child, of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to sixteen months, unless educated by other means.

SEC. 8. In case the public-school fund shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the general assembly may provide, by law, for the raising of such deficiency, by levying a tax on all the taxable property in each county, township, or school district, as they may deem proper.

SEC. 9. The general assembly shall, as far as it can be done without infringing upon vested rights, reduce all lands, moneys, and other property used or held for school purposes in the various counties of this State into the public-school fund herein provided for; and in making distribution of the annual income of said fund, shall take into consideration the amount of any county or city funds appropriated for common-school purposes, and make such distribution as will equalize the amount appropriated for common schools throughout the State.

## ARTICLE X

### MILITIA

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become citizens of the United States, shall be liable to military duty in the militia of this State; and there shall be no exemption from such duty, except of such persons as the general assembly may, by law, exempt.

SEC. 2. The general assembly shall, by law, provide for the organization of the militia, and for the paying of the same when called into actual service; but there shall be no officer above the grade of brigadier-general, nor shall there be more than two officers of that grade.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the governor, they may be appointed by the governor.

## ARTICLE XI

### MISCELLANEOUS PROVISIONS

SECTION 1. The general assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

SEC. 2. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said State, so far as the said river shall form a common boundary to this State and any other State which may be bounded thereby; and the said river Mississippi, and the navigable rivers and waters leading into the same, whether bordering on or within this State, shall be common highways, and forever free to the citizens of this State and the United States, without any tax, duty, impost, or toll therefor imposed by the State.

SEC. 3. All statute laws of this State now in force, not inconsistent with this constitution, shall continue in force until they shall expire by their own limitation, or be amended or repealed by the general assembly; and all writs, prosecutions, actions, and causes of action,

except as herein otherwise provided, shall continue; and all indictments which shall have been found, or may hereafter be found, for any crime or offence committed before this constitution takes effect may be proceeded upon as if no change had taken place, except as hereinafter specified.

SEC. 4. No person shall be prosecuted in any civil action or criminal proceeding, for or on account of any act by him done, performed, or executed, after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this State, to do such act, or in pursuance of orders received by him from any person vested with such authority; and if any action or proceeding shall have heretofore been, or shall hereafter be, instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

SEC. 5. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

SEC. 6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 7. No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

SEC. 8. In the absence of any contrary provision, all officers now or hereafter elected or appointed shall hold office during their official term, and until their successors shall be duly elected or appointed, and qualified.

SEC. 9. The general assembly shall have power to repeal or modify all ordinances adopted by any previous convention.

SEC. 10. The seat of government of this State shall remain at the city of Jefferson.

SEC. 11. No person emancipated by the ordinance abolishing slavery in Missouri, adopted on the eleventh day of January, one thousand eight hundred and sixty-five, shall, by any county court or other authority, be apprenticed, or bound for any service, except in pursuance of laws made specially applicable to the persons so emancipated.

SEC. 12. The general assembly shall provide, by law, for the indictment and trial of persons charged with the commission of any felony, in any county other than that in which the offence was committed, whenever, owing to prejudice, or any other cause, an impartial grand or petit jury cannot be impanelled in the county in which such offence was committed.

SEC. 13. The credit of the State shall not be given or loaned in aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation, or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

SEC. 14. The general assembly shall not authorize any county, city, or town to become a stockholder in, or to loan its credit to, any company, association, or corporation, unless two-thirds of the qualified

voters of such county, city, or town, at a regular or special election to be held therein, shall assent thereto.

SEC. 15. The general assembly shall have no power, for any purpose whatever, to release the lien held by the State upon any railroad.

SEC. 16. No property, real or personal, shall be exempt from taxation, except such as may be used exclusively for public schools, and such as may belong to the United States, to this State, to counties, or to municipal corporations within this State.

## ARTICLE XII

### MODE OF AMENDING AND REVISING THE CONSTITUTION

SECTION 1. This constitution may be amended and revised in pursuance of the provisions of this article.

SEC. 2. The general assembly, at any time, may propose such amendments to this constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays, and entered in full on the journals. And the proposed amendments shall be published with the laws of that session, and also shall be published weekly in two newspapers, if such there be, within each congressional district in the State, for four months next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the general assembly may provide. And if a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this constitution.

SEC. 3. The general assembly may, at any time, authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day within three months after that on which the said question shall have been voted on. At such election, each senatorial district shall elect two delegates for each senator to which it may be then entitled in the general assembly, and every such delegate shall have the qualifications of a senator. The election shall be conducted in conformity with the laws regulating the election of senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the constitution; and the constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty nor more than ninety days after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose only; and if a majority of all the votes given be in favor of such constitution, it shall, at the end

of thirty days after such election, become the constitution of this State. The result of such election shall be made known by proclamation by the governor. The general assembly shall have no power, otherwise than as in this section specified, to authorize a convention for revising and amending the constitution.

### ARTICLE XIII

#### PROVISIONS FOR PUTTING THIS CONSTITUTION INTO FORCE

*And we do further ordain as follows:*

SECTION 1. The preceding parts of this instrument shall not take effect unless this constitution be adopted by the people at the election to be held as hereinafter directed; but the provisions of this article shall be in force from the day of the adoption of this constitution by the representatives of the people in this convention assembled.

SEC. 2. For the purpose of ascertaining the sense of the people in regard to the adoption or rejection of this constitution, the same shall be submitted to the qualified voters of the State, at an election to be held on the sixth day of June, one thousand eight hundred and sixty-five, at the several election precincts in this State, and elsewhere, as hereinafter provided. On that day, or on any day not more than fifteen days prior thereto, such qualified voters of this State as shall then be absent from the places of their residence, by reason of their being in the military service of the United States, or of this State, whether they then be in or out of this State, shall be entitled to vote on the adoption or rejection of this constitution. For that purpose, a poll shall be opened in each Missouri regiment or company in such service, at the quarters of the commanding officer thereof; and the voters of this State belonging to such regiment or company, and any others belonging to any other such regiment or company, and who may be present, may vote at such poll. Any one or two commissioned officers of such regiment or company, who may be present at the opening of the polls, shall act as judge or judges of the election; and if no such officer be present, then the voters of such regiment or company present shall elect two of the voters present to act as such judges. Every such judge shall, before any votes are received, take an oath or affirmation that he will honestly and faithfully perform the duties of judge, and make proper return of the votes given at such election; and such oath the judges may administer to each other. In any election held in a regiment or company, the polls shall be opened at eight o'clock a. m., and closed at six o'clock p. m.

SEC. 3. The election provided for in the next preceding section shall be by ballot. Those ballots in favor of the constitution shall have written or printed thereon the words "New constitution—Yes;" those against the constitution shall have written or printed thereon the words, "New constitution—No."

SEC. 4. The said election shall be conducted, and the returns thereof made to the clerks of the several county courts, and by them immediately certified to the secretary of state, as provided by law in the case of elections of State officers; and where an election shall be held in a regiment or company, the returns thereof, with the poll-books, shall be certified to the secretary of state, and may be transmitted by



mail, or by any messenger to whom the judges of the election may intrust the same for that purpose.

SEC. 5. Any qualified voter of this State, within the State, who on the day of said election shall be absent from the place of his residence, may vote at any place of voting, upon satisfying the judges that he is a qualified voter, and being sworn by them that he has not voted and will not vote at said election in any other election precinct.

SEC. 6. At said election no person shall be allowed to vote who would not be a qualified voter according to the terms of this constitution if the second article thereof were then in force. The judges of election shall administer to every person offering to vote, in lieu of the oath now required to be taken by voters under the ordinance of June 10, 1862, the following oath, to wit: "I, A. B., do solemnly swear that I am well acquainted with the terms of the third section of the second article of the constitution of the State of Missouri, adopted by the convention which assembled in the city of Saint Louis on the 6th day of January, eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me." Should any such person decline to take said oath, he shall not be permitted to vote at said election; but the taking thereof shall not be deemed conclusive evidence of the right of such person to vote, but such right may be disputed and disproved. Any person who shall falsely take, or having taken shall thereafter wilfully violate the oath prescribed in this section, shall, upon conviction thereof by any court of competent jurisdiction, be adjudged guilty of the crime of perjury, and shall be punished therefor in accordance with existing law.

SEC. 7. On the first day of July next ensuing said election, the secretary of state shall, in presence of the governor, the attorney-general, or the State auditor, proceed to examine and cast up the returns of the votes taken at said election, and certified to him, including those of persons in the military service; and if it shall appear that a majority of all the votes cast at such election were in favor of the constitution, the governor shall issue his proclamation, stating that fact, and this constitution shall, on the fourth day of said month of July, be the constitution of the State of Missouri.

SEC. 8. The officer now known as the "auditor of public accounts" shall hereafter be styled State auditor.

SEC. 9. The office of register of lands shall continue until the general assembly shall abolish the same.

Done by the representatives of the people of the State of Missouri, in convention assembled, at the city of Saint Louis, on the 8th day of

April, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States the eighty-ninth.

ARNOLD KREKEL, *President.*

CHAS. D. DRAKE, *Vice-President.*

AMOS P. FOSTER, *Secretary.*

THOS. PROCTOR, *Assistant Secretary.*

**Ordinances Adopted by the Convention—1865.**

**ABOLISHING SLAVERY IN MISSOURI**

(Adopted January 11, 1865)

*Be it ordained, &c.,* That hereafter in this State there shall be neither slavery nor involuntary servitude, except in punishment of crime whereof the party shall have been duly convicted; and all persons held to service or labor as slaves are hereby declared free.

**TO PROTECT EMANCIPATED NEGROES**

(Adopted January 12, 1865)

*Be it ordained, &c.,* That no person emancipated by the ordinance abolishing slavery in Missouri, adopted on the eleventh day of January, one thousand eight hundred and sixty-five, shall, by any county court or other authority, be apprenticed, or bound for any service, except in pursuance of such laws as the general assembly of this State may hereafter enact, made specially applicable to the persons so emancipated.

**PROVIDING FOR THE VACATING OF CERTAIN CIVIL OFFICES, FILLING THE SAME ANEW, AND PROTECTING THE CITIZENS**

(Adopted March 17, 1865)

**SECTION 1.** *Be it ordained, &c.,* That the offices of the judges of the supreme courts, of all circuit courts, and of all courts of record established by any act of the general assembly, and those of the justices of all county courts, of all clerks of any of the aforesaid courts, of all circuit attorneys and their assistants, and of all sheriffs and county recorders, shall be vacated on the first day of May, one thousand eight hundred and sixty-five, and the same shall be filled for the remainder of the term of each of said offices, respectively, by appointment by the governor. The governor shall in like manner, and with like effect, fill any vacancy now existing in any of said offices. Every person appointed by the governor under this ordinance shall, before entering upon the discharge of the duties of his office, take the oath prescribed in the second section of the ordinance defining the qualifications of voters and civil officers in this State, adopted June tenth, one thousand eight hundred and sixty-two, and shall give bond in such form, in such sum, and with such security as are required by existing laws.

**SEC. 2.** No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed, or

executed after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this State, to do such act, or in pursuance of orders received by him or them from any person vested with such authority; and if any action or proceeding be brought or instituted against any person for the doing of any such act, the defendant may plead in bar thereof, and give this ordinance in evidence. The provisions of this section shall apply in all cases where suits are now pending, in the same manner and with like effect as in suits or actions hereafter brought.

PROVIDING FOR OBTAINING THE VOTES OF MISSOURI SOLDIERS ON THE  
CONSTITUTION

(Adopted April 8, 1865)

SECTION 1. *Be it ordained, &c.*, The governor of this State is required, on or before the fifteenth day of May next, or immediately thereafter, to send messengers to the different points where there are citizens of this State, beyond the limits thereof, in the volunteer army of the United States, in order to obtain the votes of such persons upon the adoption or rejection of the constitution adopted by this convention. The said messengers shall be provided with duly-prepared poll-books for said election, the expense whereof, and also the compensation of such messengers, and all other expenses connected with sending such messengers, shall be certified by the governor; and the State auditor shall draw his warrant upon the treasurer for all amounts so certified, payable out of any money in the treasury not otherwise appropriated.

SEC. 2. That such number of copies of the new constitution adopted by this convention as the governor may think necessary to a proper understanding of the constitution shall be sent to the Missouri soldiers with such messengers.

FOR THE ORGANIZATION AND GOVERNMENT OF THE MISSOURI MILITIA

(Adopted April 8, 1865)

SECTION 1. *Be it ordained, &c.*, All able-bodied male inhabitants of the State of Missouri shall be liable to military duty under this ordinance, except as is hereinafter provided, and, when organized, shall constitute and be known and designated as the "Missouri militia."

SEC. 2. Persons over the age of forty-five years, and under the age of eighteen years; United States mail carriers, when actually employed as such; United States and State officers; one miller to each public mill, and an engineer for the same, when actually employed in said capacity; teachers of public schools; ministers of the gospel; regular practising physicians, and railroad employés shall be exempt from duty in the militia, and shall be entitled to, and receive from the enrolling officer, a certificate to that effect, on producing to said enrolling officer satisfactory evidence of their respective avocations or employments.

SEC. 3. There shall be an enrolling officer for each county, with the rank of a lieutenant, appointed by the commanding officer of each sub-district, whose duty it shall be to enroll all persons in said county, liable to do military duty, once in each year; and all enrolments heretofore made under existing laws shall be taken and considered as made under this ordinance.

SEC. 4. The militia, as soon as enrolled, shall be organized into platoons, companies, regiments, and brigades. A platoon shall be composed of not less than thirty-two nor more than forty-six privates, two sergeants, four corporals, and one lieutenant. A company shall consist of the number of men, commissioned and non-commissioned officers, prescribed by the Revised Regulations of the Army of the United States. A regiment shall consist of eight companies or more, with the number of field and staff officers prescribed by Army Regulations for the particular branch of service to which it may be assigned. A brigade shall consist of three or more regiments.

SEC. 5. Platoons or companies, as soon as organized, shall elect their commissioned officers, which officers, together with all brigade, regimental, and staff officers appointed by the governor, and all non-commissioned company officers, shall, before commissions or warrants, as the case may be, shall [be] issue[d] to them, take and subscribe the following oath: "I, A. B., aged \_\_\_\_\_ years, of the county of \_\_\_\_\_, in the State of Missouri, and a native of \_\_\_\_\_, do on oath [or affirmation] declare that I have not, during the present rebellion, taken up arms or levied war against the United States nor against the State of Missouri, nor have I wilfully adhered to the enemies of either, whether domestic or foreign, by giving aid and comfort, by denouncing said governments, or either of them, by going into or favoring or encouraging others to go into, or favor secession, rebellion, or disunion, but have always in good faith opposed the same; and further, that I will support, protect, and defend the Constitution of the United States and of the State of Missouri against all enemies or opposers, whether domestic or foreign, any ordinance, law, resolution of any State convention or legislature, or of any orders, organizations, secret or otherwise, to the contrary notwithstanding, and that I do this with an honest purpose, pledge, and determination faithfully to perform the same, without any mental reservation or evasion whatsoever: So help me God."

SEC. 6. The governor shall nominate and, by and with the advice and the consent of the senate, appoint two brigadier-generals, and no more, and as many colonels, lieutenant-colonels, and majors as may be necessary for properly disciplining and governing the force organized under this ordinance: *Provided, however,* That the officers and men thus commissioned and organized shall not be entitled to nor receive any pay, rations, or emoluments when not in actual service.

SEC. 7. The part of the State north of the Missouri River shall be known as the "First military district," and the part of the State south of said river shall be known as the "Second military district," which shall be divided into such subdistricts as in the judgment of the commander-in-chief the good of the service may require.

SEC. 8. The staff of general officers shall be the same as for the time may be prescribed by regulations of the United States Army, or orders of the War Department, governing appointments of officers of

the same grade in the United States service, all of whom shall be detailed from the line of the command of the officer to whose staff they are attached.

SEC. 9. The staff of the commander-in-chief shall be an adjutant-general, with the rank and pay of colonel of cavalry; a quartermaster-general, an inspector-general, and a commissary-general, each with the rank and pay of a colonel of cavalry; a paymaster-general, with the rank and pay of lieutenant-colonel of infantry; a surgeon-general, with the rank and pay of colonel of infantry; a judge-advocate-general, with the rank and pay of lieutenant-colonel of infantry; three aides-de-camp, with the rank and pay of major of infantry. He may detail from the line and field officers of any regiment such officers as he may deem proper, and assign them to duty on his staff.

SEC. 10. It shall be lawful for the commander-in-chief to call into service such platoons, companies, or regiments as the safety and peace of the State may require, and to issue such instructions as may be necessary to insure strict discipline and familiarity in drill.

SEC. 11. The publication of the proclamation of the governor shall be deemed sufficient notice to all persons subject to military duty to report to their respective commanding officer for active service.

SEC. 12. The Articles of War and Army Regulations, as published by authority of the War Department of the United States, shall be observed by the Missouri militia in every particular not otherwise provided by this ordinance, and the manner of drill shall be such as is prescribed in the tactics adopted for the United States Army.

SEC. 13. Whenever the militia, or any part of it, is called into service, the inspector-general, or his assistants, shall muster such force into the service on the rolls of the platoon or company, one of which rolls shall be retained by the commanding officer of the platoon or company, one copy shall be returned to the adjutant-general of the State, and one copy to the district headquarters. He shall administer to each platoon or company separately the following oath: "You and each of you do solemnly swear that you will support, protect, and defend the United States and the State of Missouri, and the constitution and laws thereof, against all their enemies; that you will assist in enforcing the laws, and will obey all lawful orders of the officers having authority to command you whilst in the service: So help you God." And any person subject to military duty who shall refuse to take said oath shall be considered and treated as a prisoner of war.

SEC. 14. The surgeon-general shall appoint a physician or surgeon for each county to examine persons claiming exemption, who shall give to every person exempted by him a certificate, and shall return to the office of the adjutant of the district, within five days after the close of each of his sittings, a complete list of all persons so exempted. The physician or surgeon so employed shall receive the pay of a major of infantry while actually engaged in such service.

SEC. 15. Any physician or surgeon, authorized by the provisions of this ordinance to issue certificates of exemption, who shall fraudulently issue any such certificates, shall be liable to a fine of not less than five hundred dollars, to be recovered by indictment before the circuit court of the proper county, except Saint Louis County, where the indictment shall be before the criminal court.

SEC. 16. Every person who neglects or refuses to enroll himself shall pay the sum of twenty dollars, to be levied upon his goods and



chattels, by order of the commanding officer of the district, and may be imprisoned or put at hard labor by said officer until said fine is paid, and shall then be enrolled and assigned to such platoon or company as the commanding officer of the district may direct; and any person duly enrolled and liable to militia service who shall refuse or neglect to perform such service, shall pay a fine of five dollars per day for every day he fails to render such service, after having been thereto required by his officers, and in addition thereto such delinquent shall be subject to arrest, trial, and punishment, within the discretion of a court-martial, and nothing in this section shall be construed to exempt any man from military service.

SEC. 17. The commanding officer of each platoon or company shall certify to the commanding officer of the battalion or regiment to which he is attached a list of all persons liable to fine under the provisions of this ordinance, with the number of days each person has neglected or refused to do duty, which list shall be, by the commanding officer of the battalion or regiment, certified to the clerk of the circuit court of the county ten days before the next term of the said court, who shall place a copy of said list in a conspicuous place in his office at least five days before the first day of the term.

SEC. 18. It shall be the duty of the circuit court to render a judgment, an award, an execution against each person named in said lists for the sum due by him, and costs, which shall be collected as other fines. The sheriff of the county may collect all sums due in said lists before judgment, and shall pay over the same to the State treasury to the credit of the "Union military fund." He shall certify to the commanding officer of the district the names of all persons who fail to pay the amount stated against them in said lists, or who have no property whereof to levy such execution. And the commanding officer of the district shall arrest and put at labor the persons mentioned in the last-named list, until the amounts due by them are paid. And it shall be the duty of the circuit attorney of the proper circuit to prosecute all such matters as shall come before the said court by virtue of this section.

SEC. 19. The sum of fifty cents per day shall be reckoned to every person put at labor, under the provisions of this ordinance, until the fine or penalty due by him is fully paid.

SEC. 20. The uniform of the Missouri militia shall be the same as prescribed by the United States Army Regulations for the Army of the United States, until otherwise ordered by the commander-in-chief.

SEC. 21. All officers, when on duty, shall wear the uniform of their rank, and no person, not in the military service of the State or the United States, shall wear any insignia of rank, or any part of uniform, under a penalty of twenty dollars for every offence, to be recovered by suit and summary trial before any justice of the peace.

SEC. 22. The pay of the militia shall be the same for officers and men as allowed for the time by the United States to officers and soldiers, and fifty cents for each day's service of his horse, when he is mounted; and such pay shall be in the same funds in which the United States volunteers are paid, or their equivalent.

SEC. 23. All taxes levied and collected for military purposes, and all fines imposed upon militia-men by this ordinance, all proceeds of the sale of contraband or captured property seized or captured by the militia, and all other appropriations and levies made for the benefit of

the militia, shall likewise be paid into the treasury, to the credit of the said Union military fund. Out of such fund shall be paid, first, all sums now due the enrolled Missouri militia for services rendered, and Union military bonds now outstanding or hereafter issued; and, second, all expenses incurred according to law, and audited by the proper officers, and appropriations for military purposes, as other claims against the State.

SEC. 24. The governor of the State shall lay before the general assembly, at each regular session thereof, a report of the moneys expended for militia purposes, and an estimate of the funds necessary for support of the militia for the next two years.

SEC. 25. The commander-in-chief may assign to duty, as paymasters, such officers as may to him seem proper, not exceeding four in number, with the rank and pay of majors of infantry, and require them, before entering upon the discharge of the duties of the office, to execute a bond in a sum and with such securities as he shall order, conditioned for the faithful performance of their duty.

SEC. 26. Any officer, civil or military, who may refuse to account for and pay over, according to law, any moneys or property coming to his hands belonging to the militia fund, shall, upon conviction thereof in the circuit or criminal court, on indictment, be sentenced to imprisonment in the penitentiary for a term of not less than five nor more than ten years.

SEC. 27. *Courts-martial*.—Courts-martial shall be constituted and shall proceed in all cases, and be governed by the laws and regulations prescribed for the United States Army.

SEC. 28. The general assembly of this State shall provide the ways and means for the payment of the Missouri militia, and may, at any time, amend or repeal this ordinance.

SEC. 29. An act entitled "An act for the organization and government of the Missouri militia," approved February 10, 1865, and all other acts or parts of acts inconsistent with the provisions of this ordinance are hereby abrogated.

#### FOR THE PAYMENT OF STATE AND RAILROAD INDEBTEDNESS

(Adopted April 8, 1865)

SECTION 1. *Be it ordained, &c.*, There shall be levied and collected from the Pacific Railroad, the North Missouri Railroad and the Saint Louis and Iron Mountain Railroad Company an annual tax of ten per centum of their gross receipts for the transportation of freight and passengers (not including amounts received from and taxes paid to the United States) from the first of October, 1866, to the first of October, 1868, and fifteen per centum thereafter; which tax shall be assessed and collected in the county of Saint Louis, in the same manner as other State taxes are assessed and collected, and shall be appropriated by the general assembly to the payment of the principal and interest now due, or hereafter to become due, upon the bonds of the State, and the bonds guaranteed by the State, issued to the aforesaid railroad companies.

SEC. 2. A like tax of fifteen per centum shall be assessed and collected from the Hannibal and Saint Joseph Railroad Company, and from the Platte County Railroad Company, whenever default is made

by said companies, or either of them, in the payment of the interest or principal of the bonds of the State, or the bonds guaranteed by the State, issued to said companies, respectively; which tax shall be assessed and collected in such manner as the general assembly may by law direct, and shall be applied for the payment of the principal and interest of said bonds as the same may become due and payable.

SEC. 3. The tax in this ordinance specified shall be collected from each company hereinbefore named only for the payment of the principal and interest of the bonds for the payment of which such company shall be liable, and, whenever such bonds and interest shall have been fully paid, no further tax shall be collected from such company; but nothing shall be received by the State in discharge of any amounts due upon said bonds except cash or other bonds or obligations of this State.

SEC. 4. Should either of said companies refuse or neglect to pay said tax, as herein required, and the interest or principal of any of said bonds or any part thereof remain due and unpaid, the general assembly shall provide, by law, for the sale of the railroad and other property, and the franchises of the company that shall thus be in default, under the lien reserved to the State, and shall appropriate the proceeds of such sale to the payment of the amount remaining due and unpaid from said company.

SEC. 5. Whenever the State shall become the purchaser of any railroad or other property or the franchises sold as hereinbefore provided for, the general assembly shall provide, by law, in what manner the same shall be sold, for the payment of the indebtedness of the railroad company in default; but no railroad or other property, or franchises purchased by the State, shall be restored to any such company, until it shall have first paid in money or in Missouri State bonds, or in bonds guaranteed by this State, all interest due from said company; and all interest thereafter accruing shall be paid semiannually, in advance; and no sale or other disposition of any such railroad or other property, or the franchises, shall be made without reserving a lien upon all the property and franchises thus sold or disposed of, for all sums remaining unpaid; and all payments therefor shall be made in money, or in the bonds or other obligations of this State.

SEC. 6. The general assembly shall provide, by law, for the payment of all State indebtedness not hereinbefore provided for; and for this purpose a tax of one-quarter of one per centum on all real estate, and other property and effects subjected to taxation, shall be assessed and collected, and shall be appropriated for the payment of all such indebtedness that may have matured, and the surplus, if any, shall be set apart as a sinking fund for the payment of the obligations of the State that may hereafter become due, and for no other purpose whatsoever.

SEC. 7. At the election to be held on the 6th day of June, eighteen hundred and sixty-five, for the purpose of ascertaining the sense of the people in regard to the adoption or rejection of the constitution adopted by this convention, the question of the adoption or rejection of this ordinance shall be submitted to the voters of this State, who shall be qualified as voters under the provisions of article 13th of said constitution, and shall take the oath in said article prescribed; and the vote of such election shall be taken, and returns thereof made, at the

same time, under the same restrictions, and in the same manner as in said article is provided for the vote upon the question of the adoption or rejection of said constitution. The election herein provided for shall be by ballot. Those ballots in favor of this ordinance shall have written or printed thereon the words, "Shall the railroads pay their bonds?—Yes." Those opposed to this ordinance shall have written or printed thereon the words, "Shall the railroads pay their bonds?—No." If the majority of all the votes cast at such election shall be in favor of this ordinance, the same shall be valid and have full force and effect as a part of the constitution of this State, whether the new constitution adopted by this convention be adopted or rejected.

If a majority of such votes shall be against this ordinance, it shall have no force or validity whatsoever.

The governor of this State shall, by proclamation, make known the result of the election herein provided for.

**FOR PAYING THE OFFICERS, MEMBERS, AND OTHERS OF THE MISSOURI  
STATE CONVENTION**

(Adopted April 5, 1865)

1st. *Be it ordained, &c.*, That there be, and is hereby, appropriated, out of any money in the treasury of this State, the sum of twenty thousand dollars for the payment of members, and all other expenses of the Missouri State convention.

2d. The State treasurer is hereby required and authorized to pay to the chairman of the committee on accounts (Mr. Ferdinand Meyer) the aforesaid sum of twenty thousand dollars, and to take his receipt therefor; and the committee on accounts shall audit all indebtedness incurred by this convention; and if any debts should remain unpaid after the above appropriation is exhausted, then the general assembly at its next session shall provide for the full and complete payment of the same.

3d. The auditor of public accounts is required and authorized to audit the accounts of the committee on accounts, and make full settlement with them, paying them per diem and mileage now allowed to a member for all the necessary time occupied and journeys made after the close of this convention.

**AMENDMENTS TO THE CONSTITUTION OF 1865**

(Ratified November 8, 1870)

**ART. II. *New sections added:*** SECTION 1. Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, who has resided in this State one year next preceding his registration as a voter, and during the last sixty days of that period shall have resided in the county, city, or town where he seeks registration as a voter, who is not convicted of bribery, perjury, or other infamous crime, nor directly or indirectly interested in any bet or wager depending upon the result of the election for which said registration

is made, nor serving, at the time of such registration, in the Regular Army or Navy of the United States, shall be entitled to vote at such election for all officers, State, county, and municipal, made elective by the people, or any other election, held in pursuance of the laws of this State; but he shall not vote elsewhere than in the election district where his name is registered, except as provided in the twenty-first section of the second article of the constitution. Any person who shall, after the adoption of this amendment, engage in any rebellion against this State or the United States, shall forever be disqualified from voting at any election.

SEC. 2. Hereafter it shall not be required of any person, before he is registered as a voter or offers to vote, to take the oath of loyalty prescribed in the sixth section of the second article of the constitution; but every person, before he is registered as a qualified voter, shall take an oath to support the Constitution of the United States and of the State of Missouri.

SEC. 3. Sections five, fifteen, sixteen, seventeen, eighteen, of the second article of the constitution, and all provisions thereof, and all laws of this State not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

*New section rescinding section 11:* SECTION 1. The eleventh section of the second article of the constitution of this State, requiring jurors to take the oath of loyalty prescribed in the sixth section of said article, is hereby stricken out and forever rescinded.

*New sections added:* SECTION 1. No person shall hereafter be disqualified from holding, in this State, any office of honor, trust, or profit under its authority, or of being an officer, councilman, director, trustee, or other manager of any corporation, public or private, now existing or hereafter established by its authority, or of acting as a professor or a teacher in any educational institution, or in any common or other school, or of holding any real estate or other property in trust for the use of any church, religious society, or congregation, on account of race, or color, or previous condition of servitude, nor on account of any of the provisions of the third section of the second article of the constitution; nor shall hereafter any such person, before he enters upon the discharge of his said duties, be required to take the oath of loyalty prescribed in the sixth section of said article; but every person who may be elected or appointed to any office shall, before entering upon its duties, take and subscribe an oath or affirmation that he will support the Constitution of the United States and of the State of Missouri, and, to the best of his skill and ability, diligently and faithfully, without partiality or prejudice, discharge the duties of such office according to the constitution and laws of this State.

SEC. 2. Sections seven, eight, nine, ten, thirteen, fourteen, of the second article of the constitution, and all provisions thereof, and all laws of this State not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

ART. VI. SECTION 1. *So altered and amended as to read:* The judicial power, as to matters of law and equity, shall be vested in a supreme court, in circuit courts, and in such inferior tribunals as the general assembly may from time to time establish.

ART. VI. SEC. 12. *So altered and amended as to read:* Every appeal or writ of error shall lie from any circuit court or inferior court



of record having concurrent jurisdiction with circuit courts to the supreme court, as in such cases may be provided by law.

ART. VIII. SEC. 6. *So altered and amended as to read:* Dues from private corporations shall be secured by such means as may be prescribed by law; but in no case shall any stockholder be individually liable in any amount over or above the amount of the stock owned by him or her.

ART. IX. SEC. 10. *Added:* Neither the general assembly nor any county, city, town, township, school district, or other municipal corporation, shall ever make any appropriation, or pay, from any public fund whatever, anything in aid of any creed, church, or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other institution of learning controlled by any creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by State, county, city, town, or such public corporation, for any creed, church, or sectarian purpose whatever.

(Ratified November 5, 1872)

ART. VI. *New sections added:* SECTION 1. The supreme court shall consist of five judges, any three of whom shall constitute a quorum, and said judges shall be conservators of the peace throughout the State.

SEC. 2. The judges of the supreme court shall, except as hereinafter provided, hold office for the term of ten years, and until their successors are duly elected and qualified.

SEC. 3. At the general election in the year 1872 two additional judges of the supreme court shall be elected, and shall enter upon their office on the first Monday in January next ensuing. At the first session of the court thereafter the two additional judges so elected shall, by lot, determine the duration of their several terms of office, which shall be respectively eight and ten years, and they shall certify the result to the secretary of state. At the general election every two years thereafter one judge of the supreme court shall be elected, who shall hold his office for the period of ten years from the first day of January next ensuing. The judge at any time having the shortest time to serve shall be the presiding judge of the court.

SEC. 4. Upon the adoption of this amendment the fourth, sixth, and seventh sections of the sixth article of the constitution shall be repealed and forever rescinded.

ART. IX. SEC. 6. *So altered and amended as to read:* No part of the public-school fund shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town, or corporation. The stock of the Bank of the State of Missouri now held for school purposes, and all other stocks belonging to any school or university fund, shall be sold in such manner and at such time as the general assembly shall prescribe; and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong or may hereafter belong to said school-fund, may be invested in the bonds of the State of Missouri, or of the United States. All county school-funds shall be loaned upon good and sufficient unincumbered real estate security, with personal security in addition thereto.

(Ratified November 3, 1874)

ART. II. SEC. 4. *So altered and amended as to read:* The general assembly may provide by law for registering all voters in cities and towns having a population of more than ten thousand.

## CONSTITUTION OF MISSOURI—1875 \*

### PREAMBLE

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for his goodness, do, for the better government of the State, establish this Constitution.

### ARTICLE I

#### BOUNDARIES

SECTION 1. The boundaries of the State as heretofore established by law, are hereby ratified and confirmed. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the State, so far as the said rivers shall form a common boundary to this State and any other State or States; and the river Mississippi and the navigable rivers and waters leading to the same shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, impost or toll therefor, imposed by this State.

### ARTICLE II

#### BILL OF RIGHTS

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

SECTION 1. That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 2. That the people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their Constitution and form of government whenever they may deem it necessary to their safety and happiness; *Provided*, such change be not repugnant to the Constitution of the United States.

SEC. 3. That Missouri is a free and independent State, subject only to the Constitution of the United States; and as the preservation of the States and the maintenance of their governments are necessary to an indestructible Union, and were intended to co-exist with

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\* Verified by "The Constitution of the State of Missouri. Adopted by a vote of the people, October 30, 1875. Went into operation November 30, 1875. Jefferson City, Mo.: Tribune Printing Company, State Printers and Binders. 1891." pp. 62.

it, the Legislature is not authorized to adopt, nor will the people of this State ever assent to, any amendment or change of the Constitution of the United States which may in anywise impair the right of local self-government belonging to the people of this State.

SEC. 4. That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails of its chief design.

SEC. 5. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; that no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of this State, or with the rights of others.

SEC. 6. That no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

SEC. 7. That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof as such; and that no preference shall be given to, nor any discrimination made against, any church, sect or creed of religion, or any form of religious faith or worship.

SEC. 8. That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries.

SEC. 9. That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 10. The courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice should be administered without sale, denial or delay.

SEC. 11. That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation reduced to writing.

SEC. 12. That no person shall, for felony, be proceeded against criminally otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in

time of war or public danger; in all other cases, offenses shall be prosecuted criminally by indictment or information as concurrent remedies.

SEC. 13. That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 14. That no law shall be passed impairing the freedom of speech; that every person shall be free to say, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

SEC. 15. That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the General Assembly.

SEC. 16. That imprisonment for debt shall not be allowed, except for the non-payment of fines and penalties imposed for violation of law.

SEC. 17. That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

SEC. 18. That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

SEC. 19. That no person who is now or may hereafter become a collector or receiver of public money, or assistant or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

SEC. 20. That no private property can be taken for public use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public.

SEC. 21. That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be

ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.

SEC. 22. In criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

SEC. 23. That no person shall be compelled to testify against himself in a criminal cause, nor shall any person after being once acquitted by a jury be again, for the same offense, put in jeopardy of life or liberty; but if the jury to which the question of his guilt or innocence is submitted fail to render a verdict, the court before which the trial is had may, in its discretion, discharge the jury and commit or bail the prisoner for trial at the next term of court, or if the state of business will permit, at the same term; and if judgment be arrested after a verdict of guilty on a defective indictment, or if judgment on a verdict of guilty be reversed for error in law, nothing herein contained shall prevent a new trial of the prisoner on a proper indictment, or according to correct principles of law.

SEC. 24. That all persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 25. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

SEC. 26. That the privilege of the writ of *habeas corpus* shall never be suspended.

SEC. 27. That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 28. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but a jury for the trial of criminal or civil cases in courts not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter, a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill.

SEC. 29. That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

SEC. 30. That no person shall be deprived of life, liberty or property without due process of law.

SEC. 31. That there cannot be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 32. The enumeration in this Constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.



## ARTICLE III

## THE DISTRIBUTION OF POWERS

The powers of government shall be divided into three distinct departments—the legislative, executive and judicial—each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances in this Constitution expressly directed or permitted.

## ARTICLE IV

## LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power, subject to the limitations herein contained, shall be vested in a Senate and House of Representatives, to be styled “The General Assembly of the State of Missouri.”

## REPRESENTATION AND APPORTIONMENT

SEC. 2. The House of Representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner: The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of inhabitants of the State, as ascertained by the last decennial census of the United States, by the number two hundred. Each county having one ratio, or less, shall be entitled to one Representative; each county having two and a half times said ratio shall be entitled to two Representatives; each county having four times said ratio shall be entitled to three Representatives; each county having six times such ratio shall be entitled to four representatives, and so on above that number, giving one additional member for every two and a half additional ratios.

SEC. 3. When any county shall be entitled to more than one Representative, the county court shall cause such county to be subdivided into districts of compact and contiguous territory, corresponding in number to the Representatives to which such county is entitled, and in population as nearly equal as may be, in each of which the qualified voters shall elect one Representative, who shall be a resident of such district: *Provided*, that when any county shall be entitled to more than ten Representatives, the circuit court shall cause such county to be subdivided into districts, so as to give each district not less than two nor more than four Representatives, who shall be residents of such district—the population of the districts to be proportioned to the number of Representatives to be elected therefrom.

SEC. 4. No person shall be a member of the House of Representatives who shall not have attained the age of twenty-four years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State two years, and an inhabitant of the county or district which he may be chosen to represent one year next before the day of his election—if such county or district shall have

been so long established, but if not, then of the county or district from which the same shall have been taken—and who shall not have paid a State and county tax within one year next preceding the election.

SEC. 5. The Senate shall consist of thirty-four members, to be chosen by the qualified voters of their respective districts for four years. For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as may be, the same to be ascertained by the last decennial census taken by the United States.

SEC. 6. No person shall be a Senator who shall not have attained the age of thirty years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election—if such district shall have been so long established, but if not, then of the district or districts from which the same shall have been taken—and who shall not have paid a State and county tax within one year next preceding the election. When any county shall be entitled to more than one Senator, the circuit court shall cause such county to be subdivided into districts of compact and contiguous territory, and of population as nearly equal as may be, corresponding in number with the Senators to which such county may be entitled; and in each of these one Senator, who shall be a resident of such district, shall be elected by the qualified voters thereof.

SEC. 7. Senators and Representatives shall be chosen according to the rule of apportionment established in this Constitution, until the next decennial census by the United States shall have been taken, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every ten years thereafter upon the basis of the United States census, or if such census be not taken, or is delayed, then on the basis of a State census—such apportionment to be made at the first session of the General Assembly after each such census: *Provided*, that if at any time, or from any cause, the General Assembly shall fail or refuse to district the State for Senators, as required in this section, it shall be the duty of the Governor, Secretary of State and Attorney-General, within thirty days after the adjournment of the General Assembly on which such duty devolved, to perform said duty, and to file in the office of the Secretary of State a full statement of the districts formed by them, including the names of the counties embraced in each district, and the numbers thereof—said statement to be signed by them, and attested by the Great Seal of the State, and upon the proclamation of the Governor, the same shall be as binding and effectual as if done by the General Assembly.

SEC. 8. Until an apportionment of Representatives can be made, in accordance with the provisions of this article, the House of Representatives shall consist of one hundred and forty-three members, which shall be divided among the several counties of the State as follows: The county of St. Louis shall have seventeen; the county of Jackson four; the county of Buchanan three; the counties of Franklin, Greene, Johnson, Lafayette, Macon, Marion, Pike and Saline, each two, and each of the other counties in the State one.

SEC. 9. Senatorial and representative districts may be altered, from time to time, as public convenience may require. When any sena-

torial district shall be composed of two or more counties, they shall be contiguous—such districts to be as compact as may be—and in the formation of the same no county shall be divided.

SEC. 10. The first election of Senators and Representatives, under this Constitution, shall be held at the general election in the year one thousand eight hundred and seventy-six, when the whole number of Representatives, and the Senators from the districts having odd numbers, who shall compose the first class, shall be chosen; and in one thousand eight hundred and seventy-eight, the Senators from the districts having even numbers, who shall compose the second class; and so on at each succeeding general election, half the Senators provided for by this Constitution shall be chosen.

SEC. 11. Until the State shall be divided into senatorial districts, in accordance with the provisions of this article, said districts shall be constituted and numbered as follows:

The First district shall be composed of the counties of Andrew, Holt, Nodaway and Atchison.

Second district—The counties of Buchanan, DeKalb, Gentry and Worth.

Third district—The counties of Clay, Clinton and Platte.

Fourth district—The counties of Caldwell, Ray, Daviess and Harrison.

Fifth district—The counties of Livingston, Grundy, Mercer and Carroll.

Sixth district—The counties of Linn, Sullivan, Putnam and Chariton.

Seventh district—The counties of Randolph, Howard and Monroe.

Eighth district—The counties of Adair, Macon and Schuyler.

Ninth district—The counties of Audrain, Boone and Callaway.

Tenth district—The counties of St. Charles and Warren.

Eleventh district—The counties of Pike, Lincoln and Montgomery.

Twelfth district—the counties of Lewis, Clark, Scotland and Knox.

Thirteenth district—The counties of Marion, Shelby and Ralls.

Fourteenth district—The counties of Bates, Cass and Henry.

Fifteenth district—The county of Jackson.

Sixteenth district—The counties of Vernon, Barton, Jasper, Newton and McDonald.

Seventeenth district—The counties of Lafayette and Johnson.

Eighteenth district—The counties of Greene, Lawrence, Barry, Stone and Christian.

Nineteenth district—The counties of Saline, Pettis and Benton.

Twentieth district—The counties of Polk, Hickory, Dallas, Dade, Cedar and St. Clair.

Twenty-first district—The counties of Laclede, Webster, Wright, Texas, Douglas, Taney, Ozark and Howell.

Twenty-second district—The counties of Phelps, Miller, Maries, Camden, Pulaski, Crawford and Dent.

Twenty-third district—The counties of Cape Girardeau, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard and Scott.

Twenty-fourth district—The counties of Iron, Madison, Bollinger, Wayne, Butler, Reynolds, Carter, Ripley, Oregon and Shannon.

Twenty-fifth district—The counties of Franklin, Gasconade and Osage.

Twenty-sixth district—The counties of Washington, Jefferson, St. Francois, Ste. Genevieve and Perry.

Twenty-eighth district—The counties of Cooper, Moniteau, Morgan and Cole.

St. Louis county shall be divided into seven districts, numbered, respectively, as follows:

Twenty-seventh, Twenty-ninth, Thirtieth, Thirty-first, Thirty-second, Thirty-third and Thirty-fourth.

SEC. 12. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office under this State, or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and notaries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

SEC. 13. If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

SEC. 14. Writs of election to fill such vacancies as may occur in either house of the General Assembly shall be issued by the Governor.

SEC. 15. Every Senator and Representative elect, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm] that I will support the Constitution of the United States and of the State of Missouri, and faithfully perform the duties of my office; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing, for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law." The oath shall be administered in the halls of their respective houses, to the members thereof, by some judge of the Supreme court, or the Circuit court or the County court of Cole county, or, after the organization, by the presiding officer of either house, and shall be filed in the office of the Secretary of State. Any member of either house refusing to take said oath or affirmation shall be deemed to have thereby vacated his office, and any member convicted of having violated his oath or affirmation shall be deemed guilty of perjury, and be forever thereafter disqualified from holding any office of trust or profit in this State.

SEC. 16. The members of the General Assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not to exceed five dollars per day for the first seventy days of each session, and after that not to exceed one dollar per day for the remainder of the session, except the first session held under this Constitution, and during revising sessions, when they may receive five dollars per day for one hundred and twenty days, and one dollar per day for the remainder of such sessions. In addition to per diem, the members shall be entitled to receive traveling expenses or mileage, for any regular and extra session, not greater than now provided by law; but no member shall be entitled to traveling expenses or mileage for any extra session that may be called within one day after an adjournment of a regular

session. Committees of either house, or joint committees of both houses, appointed to examine the institutions of the State, other than those at the seat of government, may receive their actual expenses, necessarily incurred while in the performance of such duty—the items of such expenses to be returned to the chairman of such committee, and by him certified to the State Auditor, before the same, or any part thereof, can be paid. Each member may receive at each regular session an additional sum of thirty dollars, which shall be in full for all stationery used in his official capacity, and all postage, and all other incidental expenses and perquisites; and no allowance or emoluments, for any purpose whatever, shall be made to or received by the members, or any member of either house, or for their use, out of the contingent fund or otherwise, except as herein expressly provided; and no allowance or emolument, for any purpose whatever, shall ever be paid to any officer, agent, servant or employe of either house of the General Assembly, or of any committee thereof, except such per diem as may be provided for by law, not to exceed five dollars.

SEC. 17. Each house shall appoint its own officers; shall be sole judge of the qualifications, election and returns of its own members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all members elect, may expel a member; but no member shall be expelled a second time for the same cause.

SEC. 18. A majority of the whole number of members of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 19. The sessions of each house shall be held with open doors, except in cases which may require secrecy.

SEC. 20. The General Assembly elected in the year one thousand eight hundred and seventy-six shall meet on the first Wednesday after the first day of January, one thousand eight hundred and seventy-seven; and thereafter the General Assembly shall meet in regular session once only in every two years; and such meeting shall be on the first Wednesday after the first day of January next after the elections of the members thereof.

SEC. 21. Every adjournment or recess taken by the General Assembly for more than three days shall have the effect of and be an adjournment *sine die*.

SEC. 22. Every adjournment or recess taken by the General Assembly for three days or less shall be construed as not interrupting the session at which they are had or taken, but as continuing the session for all the purposes mentioned in section sixteen of this article.

SEC. 23. Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.



## LEGISLATIVE PROCEEDINGS

SEC. 24. The style of the laws of this State shall be: "*Be it enacted by the General Assembly of the State of Missouri, as follows.*"

SEC. 25. No law shall be passed, except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

SEC. 26. Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

SEC. 27. No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of the members.

SEC. 28. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and except bills passed under the third subdivision of section forty-four of this article) shall contain more than one subject, which shall be clearly expressed in its title.

SEC. 29. All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill, as thus engrossed, shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

SEC. 30. If a bill passed by either house be returned thereto, amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section, for the use of the members, before final action on such amendments.

SEC. 31. No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

SEC. 32. No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

SEC. 33. No act shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length, as if it were an original act.

SEC. 34. No act shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof; but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those inserted in lieu thereof, together with the act or section amended, shall be set forth in full as amended.

SEC. 35. When a bill is put upon its final passage in either house, and, failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

SEC. 36. No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct—said vote to be taken by yeas and nays, and entered upon the journal.

SEC. 37. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same to the end that it may become a law. The bill shall then be read at length, and if no objections be made, he shall, in presence of the house in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other house, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the Constitution has been violated in its passage, such objection shall be passed upon by the house, and if sustained, the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest, under oath, against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill, to be considered by the governor in connection therewith.

SEC. 38. When the bill has been signed, as provided for in the preceding section, it shall be the duty of the Secretary of the Senate, if the bill originated in the Senate, and of the Chief Clerk of the House of Representatives, if the bill originated in the House, to present the same in person, on the same day on which it was signed as aforesaid, to the Governor, and enter the fact upon the journal. Every bill presented to the Governor, and returned within ten days to the house in which the same originated, with the approval of the Governor, shall become a law, unless it be in violation of some provision of this Constitution.

SEC. 39. Every bill presented as aforesaid, but returned without the approval of the Governor, and with his objections thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the Governor to be entered at large upon the journal, and proceed, at its convenience, to consider the question

pending, which shall be in this form: "Shall the bill pass, the objections of the Governor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the roll, attesting the same by his signature, and send the bill, with the objections of the Governor, to the other house, in which like proceedings shall be had in relation thereto; and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall, in like manner, certify the fact upon the bill. The bill thus certified shall be deposited in the office of the Secretary of State, as an authentic act, and shall become a law in the same manner and with like effect as if it had received the approval of the Governor.

SEC. 40. Whenever the Governor shall fail to perform his duty, as prescribed in section twelve, Article V of this Constitution, in relation to any bill presented to him for his approval, the General Assembly may, by joint resolution, reciting the fact of such failure and the bill at length, direct the Secretary of State to enroll the same as an authentic act, in the archives of the State, and such enrollment shall have the same effect as an approval by the Governor: *Provided*, that such joint resolution shall not be submitted to the Governor for his approval.

SEC. 41. Within five years after the adoption of this Constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested and promulgated in such manner as the General Assembly shall direct; and a like revision, digest and promulgation shall be made at the expiration of every subsequent period of ten years.

SEC. 42. Each house shall, from time to time, publish a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the motion of any two members. Whenever the yeas and nays are demanded, the whole list of members shall be called, and the names of the absentees shall be noted and published in the journal.

#### LIMITATION OF LEGISLATIVE POWER

SEC. 43. All revenue collected and moneys received by the State, from any source whatsoever, shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

*First*—For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

*Second*—For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

*Third*—For free public school purposes.

*Fourth*—For the payment of the cost of assessing and collecting the revenue.

*Fifth*—For the payment of the civil list.

*Sixth*—For the support of the eleemosynary institutions of the State.

*Seventh*—For the pay of the General Assembly, and such other purposes, not herein prohibited, as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated.

SEC. 44. The General Assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of the State, or to issue bonds or other evidences of indebtedness thereof, except in the following cases:

*First*—In renewal of existing bonds, when they cannot be paid at maturity, out of the sinking fund or other resources.

*Second*—On the occurring of an unforeseen emergency, or casual deficiency of the revenue when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

*Third*—On the occurring of any unforeseen emergency or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the General Assembly may submit an act providing for the loan, or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they become due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act thus ratified shall be irrepealable until the debt thereby incurred shall be paid, principal and interest.

SEC. 45. The General Assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 46. The General Assembly shall have no power to make any grant or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, that this shall not be so construed as to prevent the grant of aid in a case of public calamity.

SEC. 47. The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company.

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<sup>a</sup> See amendment, 1892.

SEC. 48. The General Assembly shall have no power to grant or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 49. The General Assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

SEC. 50. The General Assembly shall have no power to release or alienate the lien held by the State upon any railroad, or in anywise change the tenor or meaning or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 51. The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

SEC. 52. The General Assembly shall have no power to make any appropriation of money, or to issue any bonds or other evidences of indebtedness for the payment or on account or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An act to audit and adjust the war debt of the State," approved March 19, 1874, or any act of a similar nature, until after the claims so audited shall have been presented to and paid by the Government of the United States to the State of Missouri.

SEC. 53. The General Assembly shall not pass any local or special law:

- Authorizing the creation, extension or impairing of liens;
- Regulating the affairs of counties, cities, townships, wards or school districts;
- Changing the names of persons or places;
- Changing the venue in civil or criminal cases;
- Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys;
- Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;
- Vacating roads, town plats, streets or alleys;
- Relating to cemeteries, grave-yards or public grounds not of the State;
- Authorizing the adoption or legitimation of children;
- Locating or changing county seats;
- Incorporating cities, towns or villages, or changing their charters;
- For the opening and conducting of elections, or fixing or changing the places of voting;



Granting divorces;

Erecting new townships, or changing township lines, or the lines of school districts;

Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability;

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining or manufacturing;

Creating corporations, or amending, renewing, extending or explaining the charter thereof;

Granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or empanneling grand or petit juries;

For limitation of civil actions;

Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject;

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

SEC. 54. No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the General Assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

SEC. 55. The General Assembly shall have no power, when convened in extra session by the Governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the Governor after it shall have been convened.

SEC. 56. The General Assembly shall have no power to remove the seat of government of this State from the City of Jefferson.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The Executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the seat of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

SEC. 2. The term of office of the Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be four years from the second Monday of January next after their election, and until their successors are elected and qualified; and the Governor and State Treasurer shall be ineligible to re-election as their own successors. At the general election to be held in the year one thousand eight hundred and seventy-six, and every four years thereafter, all of such officers, except the Superintendent of Public Schools, shall be elected, and the Superintendent of Public Schools shall be elected at the general election in the year one thousand eight hundred and seventy-eight, and every four years thereafter.

SEC. 3. The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately after the organization of the House, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the General Assembly, who shall for that purpose assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of such persons for said office.

SEC. 4. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Missouri."

SEC. 5. The Governor shall be at least thirty-five years old, a male, and shall have been a citizen of the United States ten years, and a resident of this State seven years next before his election.

SEC. 6. The Governor shall take care that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

SEC. 7. The Governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the

United States, and may call out the same to execute the laws, suppress insurrection and repel invasion; but he need not command in person unless directed so to do by a resolution of the General Assembly.

SEC. 8. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such condition and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve, and the reason for granting the same.

SEC. 9. The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

SEC. 10. The Governor shall, at the commencement of each session of the General Assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, in such manner as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 11. When any office shall become vacant, the Governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed and qualified according to law.

SEC. 12. The Governor shall consider all bills and joint resolutions which, having been passed by both houses of the General Assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated all such bills and joint resolutions, with his approval indorsed thereon, or accompanied by his objections: *Provided*, that if the General Assembly shall finally adjourn within ten days after such presentation, the Governor may, within thirty days thereafter, return such bills and resolutions to the office of the Secretary of State, with his approval or reasons for disapproval.

SEC. 13. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the General Assembly be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If it be not in ses-

sion, then he shall transmit the same within thirty days to the office of Secretary of State, with his approval or reasons for disapproval.

SEC. 14. Every resolution to which the concurrence of the Senate and House of Representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this Constitution, shall be presented to the Governor, and before the same shall take effect shall be proceeded upon in the same manner as in the case of a bill: *Provided*, that no resolution shall have the effect to repeal, extend, alter or amend any law.

SEC. 15. The Lieutenant-Governor shall possess the same qualifications as the Governor, and by virtue of his office shall be President of the Senate. In committee of the whole he may debate all questions; and when there is an equal division he shall give the casting vote in the Senate, and also in joint vote of both houses.

SEC. 16. In case of death, conviction or impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.

SEC. 17. The Senate shall choose a President *pro tempore* to preside in cases of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor. If there be no Lieutenant-Governor, or the Lieutenant-Governor shall, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives, in the same manner and with the same powers and compensation as are prescribed in the case of the office devolving upon the Lieutenant-Governor.

SEC. 18. The Lieutenant-Governor or the President *pro tempore* of the Senate, while presiding in the Senate, shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

SEC. 19. No person shall be eligible to the office of Secretary of State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.

SEC. 20. The Secretary of State shall be the custodian of the seal of the State, and authenticate therewith all official acts of the Governor, his approval of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri," and the emblems and devices thereof, heretofore prescribed by law, shall not be subject to change.

SEC. 21. The Secretary of State shall keep a register of the official acts of the Governor, and when necessary, shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the General Assembly whenever required to do so.

SEC. 22. An account shall be kept by the officers of the Executive department of all moneys and choses in action disbursed or otherwise disposed of by them, severally, from all sources, and for every

service performed; and a semi-annual report thereof shall be made to the Governor under oath. The Governor may at any time require information, in writing, under oath, from the officers of the Executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers; and any officer or manager who at any time shall make a false report shall be guilty of perjury and punished accordingly.

SEC. 23. The Governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the Governor, sealed with the Great Seal of the State of Missouri, and attested by the Secretary of State.

SEC. 24. The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms; and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. All fees that may hereafter be payable by law for any service performed by any officer provided for in this article shall be paid in advance into the State treasury.

SEC. 25. Contested elections of Governor and Lieutenant-Governor shall be decided by a joint vote of both houses of the General Assembly, in such manner as may be provided by law; and contested elections of Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be decided before such tribunal and in such manner as may be provided by law.

## ARTICLE VI

### JUDICIAL DEPARTMENT <sup>a</sup>

SECTION 1. The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme court, the St. Louis court of appeals, circuit courts, criminal courts, probate courts, county courts, and municipal corporation courts.

SEC. 2. The Supreme court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under the restrictions and limitations in this Constitution provided.

SEC. 3. The Supreme court shall have a general superintending control over all inferior courts. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, and other original remedial writs, and to hear and determine the same.

SEC. 4. The judges of the Supreme court shall hold office for the term of ten years. The judge oldest in commission shall be Chief Justice of the court; and, if there be more than one commission of the same date, the court may select the Chief Justice from the judges holding the same.

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<sup>a</sup> See amendment, 1890.



SEC. 5. The Supreme court shall consist of five judges, any three of whom shall constitute a quorum; and said judges shall be conservators of the peace throughout the State, and shall be elected by the qualified voters thereof.

SEC. 6. The judges of the Supreme court shall be citizens of the United States, not less than thirty years old, and shall have been citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.

SEC. 7. The full terms of the judges of the Supreme court shall commence on the first day of January next ensuing their election, and those elected to fill any vacancy shall also enter upon the discharge of their duties on the first day of January next ensuing such election. Those appointed shall enter upon the discharge of their duties as soon as qualified.

SEC. 8. The present judges of the Supreme court shall remain in office until the expiration of their respective terms of office. To fill their places as their terms expire, one judge shall be elected at the general election in eighteen hundred and seventy-six, and one every two years thereafter.

SEC. 9. The Supreme court shall be held at the seat of government at such times as may be prescribed by law; and until otherwise directed by law, the terms of said court shall commence on the third Tuesday in October and April of each year.

SEC. 10. The State shall provide a suitable court-room at the seat of government, in which the Supreme court shall hold its sessions; also a clerk's office, furnished offices for the judges, and the use of the State library.

SEC. 11. If, in any cause pending in the Supreme court or the St. Louis court of appeals, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein based on such division; but the parties to the cause may agree upon some person, learned in the law, to act as special judge in the cause, who shall therein sit with the court, and give decision in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge, the court shall appoint one.

SEC. 12. There is hereby established in the city of St. Louis an appellate court, to be known as the "St. Louis court of appeals," the jurisdiction of which shall be co-extensive with the city of St. Louis and the counties of St. Louis, St. Charles, Lincoln and Warren. Said court shall have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, and other original remedial writs, and to hear and determine the same, and shall have a superintending control over all inferior courts of record in said counties. Appeals shall lie from the decisions of the St. Louis court of appeals to the Supreme court, and writs of error may issue from the supreme court to said court in the following cases only: In all cases where the amount in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars; in cases involving the construction of the constitution of the United States or of this State; in cases where the validity of a treaty or statute of or authority exercised under the United States is drawn in question; in cases involving the construction of the revenue laws of this State, or the title to any office under this State; in cases involving the title to real estate; in cases where a

county or other political subdivision of the State or any State officer is a party, and in all cases of felony.

SEC. 13. The St. Louis court of appeals shall consist of three judges, to be elected by the qualified voters of the city of St. Louis, and the counties of St. Louis, St. Charles, Lincoln and Warren, who shall hold their offices for the period of twelve years. They shall be residents of the district composed of said counties, shall possess the same qualifications as judges of the Supreme court, and each shall receive the same compensation as is now, or may be, provided by law for the judges of the circuit court of St. Louis county, and be paid from the same sources: *Provided*, that each of said counties shall pay its proportional part of the same, according to its taxable property.

SEC. 14. The judges of said court shall be conservators of the peace throughout said counties. Any two of said judges shall constitute a quorum. There shall be two terms of said court to be held each year, on the first Monday of March and October, and the first term of said court shall be held on the first Monday in January, 1876.

SEC. 15. The opinions of said court shall be in writing, and shall be filed in the cases in which they shall be respectively made, and become parts of their records; and all laws relating to the practice in the Supreme court shall apply to this court, so far as the same may be applicable.

SEC. 16. At the first general election held in said city and counties after the adoption of this Constitution, three judges of said court shall be elected, who shall determine by lot the duration of their several terms of office, which shall be respectively, four, eight and twelve years, and certify the result to the Secretary of State; and every four years thereafter one judge of said court shall be elected, to hold office for the term of twelve years. The term of office of such judges shall begin on the first Monday in January next ensuing their election. The judge having the oldest license to practice law in this State shall be the presiding judge of said court.

SEC. 17. Upon the adoption of this Constitution the Governor shall appoint three judges for said court, who shall hold their offices until the first Monday of January, eighteen hundred and seventy-seven, and until their successors shall be duly qualified.

SEC. 18. The clerk of the Supreme court at St. Louis shall be the clerk of the St. Louis court of appeals until the expiration of the term for which he was appointed clerk of the Supreme court, and until his successor shall be duly qualified.

SEC. 19. All cases which may be pending in the Supreme court at St. Louis at the time of the adoption of this Constitution, which by its terms would come within the final appellate jurisdiction of the St. Louis court of appeals, shall be certified and transferred to the St. Louis court of appeals, to be heard and determined by said court.

SEC. 20. All cases coming to said court by appeal or writ of error shall be triable at the expiration of fifteen days from the filing of the transcript in the office of the clerk of said court.

SEC. 21. Upon the adoption of this Constitution, and after the close of the next regular terms of the Supreme court at St. Louis and St. Joseph, as now established by law, the office of the clerk of the Supreme court at St. Louis and St. Joseph shall be vacated, and said clerks shall transmit to the clerk of the Supreme court at Jefferson

City all the books, records, documents, transcripts and papers belonging to their respective offices, except those required by section nineteen of this article to be turned over to the St. Louis court of appeals; and said records, documents, transcripts and papers shall become part of the records, documents, transcripts and papers of said Supreme court at Jefferson City, and said court shall hear and determine all the cases thus transferred as other cases.

SEC. 22. The circuit court shall have jurisdiction over all criminal cases not otherwise provided for by law, exclusive original jurisdiction in all civil cases not otherwise provided for, and such concurrent jurisdiction with and appellate jurisdiction from inferior tribunals and justices of the peace as is or may be provided by law. It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

SEC. 23. The circuit court shall exercise a superintending control over criminal courts, probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

SEC. 24. The State, except as otherwise provided in this Constitution, shall be divided into convenient circuits of contiguous counties, in each of which circuits one circuit judge shall be elected; and such circuits may be changed, enlarged, diminished or abolished, from time to time, as public convenience may require; and whenever a circuit shall be abolished, the office of the judge of such circuit shall cease.

SEC. 25. The judges of the circuit courts shall be elected by the qualified voters of each circuit; shall hold their offices for the term of six years, and shall reside in and be conservators of the peace within their respective circuits.

SEC. 26. No person shall be eligible to the office of judge of the circuit court who shall not have attained the age of thirty years, been a citizen of the United States five years, a qualified voter of this State for three years, and who shall not be a resident of the circuit in which he may be elected or appointed.

SEC. 27. The circuit court of St. Louis county shall be composed of five judges, and such additional number as the General Assembly may, from time to time, provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such other business as may be provided by law, at such time as they may determine; but shall have no power to review any order, decision or proceeding of the court in special term. The St. Louis court of appeals shall have exclusive jurisdiction of all appeals from and writs of error to the circuit courts of St. Charles, Lincoln and Warren counties, and the circuit court of St. Louis county, in special term, and all courts of record having criminal jurisdiction in said counties.

SEC. 28. In any circuit composed of a single county, the General Assembly may, from time to time, provide for one or more additional judges, as the business shall require; each of whom shall separately try cases and perform all other duties imposed upon circuit judges.

SEC. 29. If there be a vacancy in the office of judge of any circuit, or if the judge be sick, absent, or from any cause unable to hold any term or part of term of court, in any county in his circuit, such term

or part of term of court may be held by a judge of any other circuit; and at the request of the judge of any circuit, any term of court or part of term in his circuit may be held by the judge of any other circuit; and in all such cases, or in any case where the judge cannot preside, the General Assembly shall make such additional provision for holding court as may be found necessary.

SEC. 30. The election of judges of all courts of record shall be held as is or may be provided by law, and in case of a tie or contested election between the candidates, the same shall be determined as prescribed by law.

SEC. 31. The General Assembly shall have no power to establish criminal courts, except in counties having a population exceeding fifty thousand.

SEC. 32. In case the office of judge of any court of record become vacant by death, resignation, removal, failure to qualify, or otherwise, such vacancy shall be filled in the manner provided by law.

SEC. 33. The judges of the Supreme, appellate and circuit courts, and of all other courts of record receiving a salary, shall, at stated times, receive such compensation for their services as is or may be prescribed by law; but it shall not be increased or diminished during the period for which they were elected.

SEC. 34. The General Assembly shall establish in every county a probate court, which shall be a court of record, and consist of one judge, who shall be elected. Said court shall have jurisdiction over all matters pertaining to probate business, to granting letters testamentary and of administration, the appointment of guardians and curators of minors and persons of unsound mind, settling the accounts of executors, administrators, curators and guardians, and the sale or leasing of lands by administrators, curators and guardians; and, also, jurisdiction over all matters relating to apprentices: *Provided*, that until the General Assembly shall provide by law for a uniform system of probate courts, the jurisdiction of probate courts heretofore established shall remain as now provided by law.

SEC. 35. Probate courts shall be uniform in their organization, jurisdiction, duties and practice, except that a separate clerk may be provided for, or the judge may be required to act, *ex officio*, as his own clerk.

SEC. 36. In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law.

SEC. 37. In each county there shall be appointed, or elected, as many justices of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law.

SEC. 38. All writs and process shall run and all prosecutions shall be conducted in the name of the "State of Missouri;" all writs shall be attested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

SEC. 39. The St. Louis court of appeals and Supreme court shall appoint their own clerks. The clerks of all other courts of record shall be elective, for such terms and in such manner as may be directed by law: *Provided*, that the term of office of no existing clerk

of any court of record, not abolished by this Constitution, shall be affected by such law.

SEC. 40. In case there be a tie or a contested election between candidates for clerk of any court of record, the same shall be determined in such manner as may be directed by law.

SEC. 41. In case of the inability of any judge of a court of record to discharge the duties of his office with efficiency, by reason of continued sickness, or physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each house concurring, with the approval of the Governor, to remove such judge from office; but each house shall state on its respective journal the cause for which it shall wish his removal, and give him notice thereof, and he shall have the right to be heard in his defense, in such manner as the General Assembly shall by law direct.

SEC. 42. All courts now existing in this State, not named or provided for in this Constitution, shall continue until the expiration of the terms of office of the several judges; and as such terms expire, the business of said courts shall vest in the court having jurisdiction thereof in the counties where said courts now exist, and all the records and papers shall be transferred to the proper courts.

SEC. 43. The Supreme court of the State shall designate what opinions delivered by the court, or the judges thereof, may be printed at the expense of the State; and the General Assembly shall make no provision for payment by the State for the publication of any case decided by said court, not so designated.

SEC. 44. All judicial decisions in this State shall be free for publication by any person.

## ARTICLE VII

### IMPEACHMENTS

SECTION 1. The Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Schools and Judges of the Supreme, circuit and criminal courts, and of the St. Louis court of appeals, shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office.

SEC. 2. The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be sworn to do justice according to law and evidence. When the Governor of the State is on trial, the Chief Justice of the Supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators present. But judgment in such cases shall not extend any further than removal from office, and disqualification to hold any office of honor, trust or profit under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

## ARTICLE VIII

### SUFFRAGE AND ELECTIONS

SECTION 1. The general election shall be held biennially on the Tuesday next following the first Monday in November. The first



general election under this Constitution shall be held on that day in the year one thousand eight hundred and seventy-six; but the General Assembly may, by law, fix a different day—two-thirds of all the members of each house consenting thereto.

SEC. 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

*First*—He shall have resided in the State one year immediately preceding the election at which he offers to vote.

*Second*—He shall have resided in the county, city or town where he shall offer to vote, at least sixty days immediately preceding the election.

SEC. 3. All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do so as witnesses in a judicial proceeding: *Provided*, that in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

SEC. 4. Voters shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 5. The General Assembly shall provide, by law, for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

SEC. 6. All elections, by persons in a representative capacity, shall be *viva voce*.

SEC. 7. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poor-house or other asylum at public expense, nor while confined in public prison.

SEC. 8. No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

SEC. 9. The trial and determination of contested elections of all public officers, whether State, judicial, municipal or local, except Governor and Lieutenant-Governor, shall be by the courts of law, or by one or more of the judges thereof. The General Assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating its exercise, shall apply to any contest arising out of any election held before said law shall take effect.

SEC. 10. The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

SEC. 11. No officer, soldier or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this State.

SEC. 12. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

## ARTICLE IX

### COUNTIES, CITIES AND TOWNS

SECTION 1. The several counties of this State, as they now exist, are hereby recognized as legal subdivisions of the State.

SEC. 2. The General Assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law; and no county seat shall be removed unless two-thirds of the qualified voters of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in five years. All additions to a town which is a county seat shall be included, considered and regarded as part of the county seat.

SEC. 3. The General Assembly shall have no power to establish any new county with a territory of less than four hundred and ten square miles, nor to reduce any county, now established, to a less area or less population than required for a ratio of representation existing at the time; but when a new county is formed, having a population less than a ratio of representation, it shall be attached for representative purposes to the county from which the greatest amount of territory is taken until such ratio shall be obtained. No county shall be divided or have any portion stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the qualified voters of the county or counties thus affected, voting on the question, shall vote therefor; nor shall any new county be established, any line of which shall run within ten miles of the then existing county seat of any county. In all cases of the establishment of any new county, the new county shall be held for and obliged to pay its ratable proportion of all the liabilities then existing of the county or counties from which said new county shall be formed.

SEC. 4. No part of the territory of any county shall be stricken off and added to an adjoining county, without submitting the question to the qualified voters of the counties immediately interested, nor unless a majority of all the qualified voters of the counties thus affected, voting on the question, shall vote therefor. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it is taken.

SEC. 5. When any new county, formed from contiguous territory taken from older counties, or when any county to which territory

shall be added taken from an adjoining county, shall fail to pay the proportion of indebtedness of such territory to the county or counties from which it is taken, then it may be lawful for any county from which such territory has been taken, to levy and collect, by taxation, the due proportion of indebtedness of such territory, in the same manner as if the territory had not been stricken off.

SEC. 6. No county, township, city or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning, or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the General Assembly, or by the charter of any corporation, is hereby repealed: *Provided, however,* that nothing in this Constitution contained shall affect the right of any such municipality to make such subscription, where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue of renewal bonds or the use of such other means as are or may be prescribed by law, for the liquidation or payment of such subscription, or of any existing indebtedness.

SEC. 7. The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to and be governed by the general laws relating to such corporations.

SEC. 8. The General Assembly may provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of county affairs, and the assessment and collection of the revenue by county officers, in conflict with such general law for township organization, may be dispensed with, and the business of said county, and the local concerns of the several townships therein, may be transacted in such manner as may be prescribed by law: *Provided,* that the justices of the county court in such case shall not exceed three in number.

SEC. 9. In any county which shall have adopted township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that shall be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, it shall cease in said county, and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

SEC. 10. There shall be elected by the qualified voters in each county, at the time and places of electing representatives, a sheriff and coroner. They shall serve for two years, and until their successors be

duly elected and qualified, unless sooner removed for malfeasance in office, and shall be eligible only four years in any period of six. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law. Whenever a county shall be hereafter established, the Governor shall appoint a sheriff and a coroner therein, who shall continue in office until the next succeeding general election, and until their successors shall be duly elected and qualified.

SEC. 11. Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise, the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled for the remainder of the term by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

SEC. 12. The General Assembly shall, by a law uniform in its operation, provide for and regulate the fees of all county officers, and for this purpose may classify the counties by population.

SEC. 13. The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him, actually paid to his deputies or assistants, stating the same in detail and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury.

SEC. 14. Except as otherwise directed by this Constitution, the General Assembly shall provide for the election or appointment of such other county, township and municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

SEC. 15. In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

SEC. 16. Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board, or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the

end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the law-making authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

SEC. 17. It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

SEC. 18. In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a State officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia.

SEC. 19. The corporate authorities of any county, city or other municipal subdivision of this State having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve of article X of this Constitution, may, in anticipation of the customary annual revenue thereof, appropriate during any fiscal year, toward the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds.

#### ST. LOUIS

SEC. 20. The city of St. Louis may extend its limits so as to embrace the parks now without its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged, upon the following conditions, that is to say: The council of the city and county court of the county of St. Louis, shall, at the request of the mayor of the city of St. Louis, meet in joint session and order an election, to be held as provided for



general elections by the qualified voters of the city and county, of a board of thirteen free-holders of such city or county, whose duty shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of St. Louis county, and the government of the city thus enlarged, by a charter in harmony with and subject to the Constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket; which scheme and charter shall be signed in duplicate by said board, or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city council and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order therefor; and if a majority of such qualified voters, voting at such election, shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of St. Louis, and all amendments thereof, and all special laws relating to St. Louis county inconsistent with such scheme.

SEC. 21. A copy of such scheme and charter, with a certificate thereto appended, signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds of St. Louis county, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof.

SEC. 22. The charter so ratified may be amended, at intervals of not less than two years, by proposals therefor, submitted by the law-making authorities of the city to the qualified voters thereof at a general or special election, held at least sixty days after the publication of such proposals, and accepted by at least three-fifths of the qualified voters voting thereat.

SEC. 23. Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park tax; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county of St. Louis shall be independent of each other. The city shall be exempted from all county taxation.

The judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the General Assembly, collect the State revenue and perform all other functions in relation to the State in the same manner as if it were a county as in this Constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of St. Louis. Until the next apportionment for Senators and Representatives in the General Assembly, the city shall have six Senators and fifteen Representatives, and the county one Senator and two Representatives, the same being the number of Senators and Representatives to which the county of St. Louis, as now organized, is entitled under sections eight and eleven of article IV of this Constitution.

SEC. 24. The county and city of St. Louis, as now existing, shall continue to constitute the Eighth judicial circuit, and the jurisdiction of all courts of record, except the county court, shall continue until otherwise provided by law.

SEC. 25. Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this State.

## ARTICLE X

### REVENUE AND TAXATION

SECTION 1. The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

SEC. 2. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly.

SEC. 3. Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

SEC. 4. All property subject to taxation shall be taxed in proportion to its value.

SEC. 5. All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock.

SEC. 6. The property, real and personal, of the State, counties and other municipal corporations and cemeteries shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also such property, real or personal, as may be used exclusively for agricultural or horticultural societies: Provided, that such exemptions shall be only by general law.

SEC. 7. All laws exempting property from taxation, other than the property above enumerated, shall be void.

SEC. 8. The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the hundred dollars valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents.

SEC. 9. No county, city, town or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 10. The General Assembly shall not impose taxes upon counties, cities, towns or other municipal corporations, or upon the inhabitants or property thereof, for county, city, town or other municipal purposes; but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

SEC. 11. Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes, the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand inhabitants or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts, the annual rate on property shall not exceed forty cents on the hundred dollars valuation: *Provided*, the aforesaid annual rates for school purposes may be increased, in districts formed of cities and towns, to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are tax-payers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city or school district, voting at such election, shall

vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions, as to rates, shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing or bonds which may be issued in renewal of such indebtedness.

SEC. 12. No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness: *Provided*, that with such assent any county may be allowed to become indebted to a larger amount for the erection of a court-house or jail; *and provided further*, that any county, city, town, township, school district, or other political corporation or subdivision of the State, incurring any indebtedness requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for payment of the principal thereof within twenty years from the time of contracting the same.

SEC. 13. Private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

SEC. 14. The tax authorized by the sixth section of the ordinance adopted June sixth, one thousand eight hundred and sixty-five, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars; the proceeds of which tax shall be paid into the State treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-three of article IV of this Constitution. The funds and resources now in the State Interest and State Sinking funds shall be appropriated to the same purposes; and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed.

SEC. 15. All moneys now or at any time hereafter in the State treasury belonging to the State shall, immediately on receipt thereof, be deposited by the Treasurer to the credit of the State for the benefit of the funds to which they respectively belong, in such bank or banks as he may, from time to time, with the approval of the Governor and Attorney-General, select—the said bank or banks giving security, satisfactory to the Governor and Attorney-General, for the safe-keeping and payment of such deposit, when demanded by the State Treas-

urer on his check—such bank to pay a bonus for the use of such deposits not less than the bonus paid by other banks for similar deposits; and the same, together with such interest and profits as may accrue thereon, shall be disbursed by said Treasurer for the purposes of the State, according to law, upon warrants drawn by the State Auditor, and not otherwise.

SEC. 16. The Treasurer shall keep a separate account of the funds, and the number and amount of warrants received, and from whom; and shall publish, in such manner as the Governor may designate, quarterly statements, showing the amount of State moneys and where the same are kept or deposited.

SEC. 17. The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 18. There shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General. The duty of said Board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

SEC. 19. No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

SEC. 20. The moneys arising from any loan, debt or liability contracted by the State, or any county, city, town or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

SEC. 21. No corporation, company or association, other than those formed for benevolent, religious, scientific or educational purposes, shall be created or organized under the laws of this State, unless the persons named as incorporators shall, at or before the filing of the articles of association or incorporation, pay into the State treasury fifty dollars for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, that nothing contained in this section shall be construed to prohibit the General Assembly from levying a further tax on the franchises of such corporation.



## ARTICLE XI

## EDUCATION

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

SEC. 2. The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

SEC. 3. Separate free public schools shall be established for the education of children of African descent.

SEC. 4. The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the board. The Governor, Secretary of State and Attorney-General shall be *ex officio* members, and, with the Superintendent, compose said Board of Education.

SEC. 5. The General Assembly shall, whenever the Public School fund will permit, and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

SEC. 6. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat, from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been or hereafter may be made to this State, and not otherwise appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State treasury, and securely invested and sacredly preserved as a Public School fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

SEC. 7. In case the Public School fund now provided and set apart by law for the support of free public schools shall be insufficient to sustain a free school at least four months in every year in each school

district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent of the State revenue, exclusive of the Interest and Sinking fund, to be applied annually to the support of the public schools.

SEC. 8. All moneys, stocks, bonds, lands and other property belonging to a county school fund; also, the net proceeds from the sale of estrays; also, the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties, as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

SEC. 9. No part of the Public School fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, shall be invested in the bonds of the State of Missouri, or of the United States.

SEC. 10. All county school funds shall be loaned only upon unencumbered real estate security, of double the value of the loan, with personal security in addition thereto.

SEC. 11. Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever anything in aid of any religious creed, church or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

## ARTICLE XII

### CORPORATIONS

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith, at the adoption of this Constitution, shall thereafter have no validity.

SEC. 2. No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the State.

SEC. 3. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporations.

SEC. 4. The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

SEC. 5. The exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well-being of the State.

SEC. 6. In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner.

SEC. 7. No corporation shall engage in business, other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business.

SEC. 8. No corporation shall issue stock or bonds, except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased, except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be provided by law.

SEC. 9. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her.

SEC. 10. No corporation shall issue preferred stock without the consent of all the stockholders.

SEC. 11. The term "corporation," as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships.

#### RAILROADS

SEC. 12. It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount, for the transportation of the same, for a less distance than the amount charged for any greater distance; and suitable laws shall be passed by the General Assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates.

SEC. 13. Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

SEC. 14. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

SEC. 15. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and shall report annually, under oath, to the State Auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The General Assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

SEC. 16. The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals; and the General Assembly shall pass no law exempting any such property from execution and sale.

SEC. 17. No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues.

SEC. 18. If any railroad company organized under the laws of this State shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other State, or of the United States, the same shall not thereby become a foreign corporation; but

the courts of this State shall retain jurisdiction in all matters which may arise, as if said consolidation had not taken place. In no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 19. The General Assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

SEC. 20. No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained.

SEC. 21. No railroad corporation in existence at the time of the adoption of this Constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this Constitution applicable to railroads.

SEC. 22. No president, director, officer, agent or employe of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

SEC. 23. No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad company, or any lessee, manager or employe thereof, shall make any preference in furnishing cars or motive power.

SEC. 24. No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the General Assembly, or members of the Board of Equalization, or any State or county or municipal officers; and the acceptance of such pass or ticket, by a member of the General Assembly, or any such officer, shall be a forfeiture of his office.

#### BANKS

SEC. 25. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation, or joint stock company, or association for banking purposes, now created or hereafter to be created.

SEC. 26. No act of the General Assembly authorizing or creating corporations or associations with banking powers (except banks of deposit or discount), nor amendments thereto, shall go into effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the State, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election.

SEC. 27. It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager,



cashier or other officer of any banking institution, to assent to the reception of deposits, or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent, or in failing circumstances; and any such officer, agent or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent.

### ARTICLE XIII

#### MILITIA

SECTION 1. All able-bodied male inhabitants of this State between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of this State: *Provided*, that no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.

SEC. 2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

SEC. 3. Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the Governor, they may be appointed by the Governor.

SEC. 4. Volunteer companies of infantry, cavalry and artillery may be formed in such manner and under such restrictions as may be provided by law.

SEC. 5. The volunteer and militia forces shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

SEC. 6. The Governor shall appoint the Adjutant-General, Quartermaster-General and his other staff officers. He shall also, with the advice and consent of the Senate, appoint all major-generals and brigadier-generals.

SEC. 7. The General Assembly shall provide for the safe keeping of the public arms, military records, banners and relics of the State.

### ARTICLE XIV

#### MISCELLANEOUS PROVISIONS

SECTION 1. The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with any regulation which Congress may find necessary for securing the title in such soil to *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

SEC. 2. No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed or executed between the first day of January, one thousand eight hundred and sixty-one, and the twentieth day of August, one thousand eight hundred and sixty-six, by virtue of military authority vested in him, or in pursuance of orders from any person vested with such authority by the government of the United States, or of this State, or of the late Confederate States, or any of them, to do such act. And if any action or proceedings shall have been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

SEC. 3. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in this State.

SEC. 4. No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

SEC. 5. In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.

SEC. 6. All officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

SEC. 7. The General Assembly shall, in addition to other penalties, provide for the removal from office of county, city, town and township officers, on conviction of willful, corrupt or fraudulent violation or neglect of official duty.

SEC. 8. The compensation or fees of no state, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed.

SEC. 9. The appointment of all officers, not otherwise directed by this Constitution, shall be made in such manner as may be prescribed by law.

SEC. 10. The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State; and all acts or parts of acts heretofore passed by the Legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

SEC. 11. It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations in writing to the court.

SEC. 12. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days next before the commencement and after the termination of each session: and for any speech or debate in either house they shall not be questioned in any other place.

## ARTICLE XV

## MODE OF AMENDING THE CONSTITUTION

SECTION 1. This Constitution may be amended and revised only in pursuance of the provisions of this article.

SEC. 2. The General Assembly may, at any time, propose such amendments to this Constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays and entered in full on the journals. The proposed amendments shall be published with the laws of that session, and also shall be published weekly in some newspaper, if such there be, within each county in the State, for four consecutive weeks next preceding the general election then next ensuing. The proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the General Assembly may provide. If a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this Constitution.

SEC. 3. The General Assembly may at any time authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the Constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the Governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day not less than three and within six months after that on which the said question shall have been voted on. At such election each Senatorial district shall elect two delegates for each Senator to which it may then be entitled in the General Assembly, and every such delegate shall have the qualifications of a State Senator. The election shall be conducted in conformity with the laws regulating the election of Senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the Constitution; and the Constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty days nor more than six months after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose; and if a majority of all the votes given be in favor of such Constitution, it shall, at the end of thirty days after such election, become the Constitution of this State. The result of such election shall be made known by proclamation by the Governor. The General Assembly shall have no power, otherwise than in this section specified, to authorize a convention for revising and amending the Constitution.

## SCHEDULE

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force until

altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them, shall remain in force until the first day of July, one thousand eight hundred and seventy-seven, unless sooner amended or repealed by the General Assembly.

SEC. 2. That all recognizances, obligations and all other instruments entered into or executed before the adoption of this Constitution, to this State or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties and forfeitures, due or owing to this State, or any such subdivision or municipality, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments which shall have been found or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

SEC. 3. All county and probate courts, as now constituted and organized, shall continue with their jurisdiction until the General Assembly shall by law conform them in their organization to the requirements of this Constitution.

SEC. 4. All criminal courts organized and existing under the laws of this State, and not specially provided for in this Constitution, shall continue to exist until otherwise provided by law.

SEC. 5. All courts of common pleas existing and organized in cities and towns having a population exceeding three thousand five hundred inhabitants, and such as by the law of their creation are presided over by a judge of a circuit court, shall continue to exist and exercise their present jurisdiction, until otherwise provided by law. All other courts of common pleas shall cease to exist at the expiration of the present terms of office of the several judges thereof.

SEC. 6. All persons now filling any office or appointment in this State shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless otherwise provided by law.

SEC. 7. Upon the adoption of this Constitution, all appeals to and writs of error from the Supreme court shall be returnable to the Supreme court at the City of Jefferson.

SEC. 8. Until the General Assembly shall make provision for the payment of the State and railroad indebtedness of this State, in pursuance of section fourteen of article X of this Constitution, there shall be levied and collected an annual tax of one-fifth of one per centum on all real estate and other property and effects subject to taxation, the proceeds of which shall be applied to the payment of the interest on the bonded debt of this State at it matures, and the surplus, if any, shall be paid into the Sinking fund, and thereafter applied to the payment of such indebtedness, and to no other purpose.

SEC. 9. This Constitution shall be submitted to the people of this State for adoption or rejection, at an election to be held for that purpose only, on Saturday, the thirtieth day of October, one thousand

eight hundred and seventy-five. Every person entitled to vote under the Constitution and laws of this State shall be entitled to vote for the adoption or rejection of this Constitution. Said election shall be held, and said qualified electors shall vote at the usual places of voting in the several counties of this State; and said election shall be conducted, and returns thereof made, according to the laws now in force regulating general elections.

SEC. 10. The clerks of the several county courts in this State shall, at least five days before said election, cause to be delivered to the judges of election in each election district or precinct in their respective counties, suitable blank poll-books, forms of return and five times the number of properly prepared printed ballots for said election, that there are voters in said respective districts, the expense whereof shall be allowed and paid by the several county courts, as other county expenditures are allowed and paid.

SEC. 11. At said election the ballots shall be in the following form: New Constitution ticket (*erase the clause you do not favor.*) New Constitution,—Yes. New Constitution,—No. Each of said tickets shall be counted as a vote for or against this Constitution, as the one clause or the other may be canceled with ink or pencil by the voter, and returns thereof shall be made accordingly. If both clauses of the ticket be erased, or if neither be erased, the ticket shall not be counted.

SEC. 12. The returns of the whole vote cast for the adoption and against the adoption of this Constitution shall be made by the several clerks, as now provided by law in case of the election of State officers, to the Secretary of State, within twenty days after the election; and the returns of said votes shall, within ten days thereafter, be examined and canvassed by the State Auditor, State Treasurer and Secretary of State, or any two of them, in the presence of the Governor, and proclamation shall be made by the Governor forthwith of the result of the canvass.

SEC. 13. If, upon such canvass, it shall appear that a majority of the votes polled were in favor of the new Constitution, then this Constitution shall, on and after the thirtieth day of November, one thousand eight hundred and seventy-five, be the supreme law of the State of Missouri, and the present existing Constitution shall thereupon cease in all its provisions; but if it shall appear that a majority of the votes polled were against the new Constitution, then this Constitution shall be null and void, and the existing Constitution shall continue in force.

SEC. 14. The provisions of this schedule required to be executed prior to the adoption or rejection of this Constitution shall take effect and be in force immediately.

SEC. 15. The General Assembly shall pass all such laws as may be necessary to carry this Constitution into full effect.

SEC. 16. The present Secretary of State, State Auditor, Attorney-General and Superintendent of Public Schools shall, during the remainder of their terms of office, unless otherwise directed by law, receive the same compensation and fees as is now provided by law; and the present State Treasurer shall, during the remainder of the term of his office, continue to be governed by existing law, in the



custody and disposition of the State funds, unless otherwise directed by law.

SEC. 17. Section twelve of the Bill of Rights shall not be so construed as to prevent arrests and preliminary examination in any criminal case.

Done in Convention, at the Capitol, in the City of Jefferson, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

WALDO P. JOHNSON,  
*President, St. Clair county.*

N. W. WATKINS,  
*Vice-President, Scott county.*

### AMENDMENTS

(November, 1890)

SECTION 1. The supreme court shall consist of seven judges, and, after the first Monday in January, 1891, shall be divided into two divisions, as follows: One division to consist of four judges of the court and to be known as division number one, the other to consist of the remaining judges and to be known as division number two. The divisions shall sit separately for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes in the supreme court, except that division number two shall have exclusive cognizance of all criminal cases pending in said court: Provided, that a cause therein may be transferred to the court as provided in section four of this amendment. The division of business of which said divisions have concurrent jurisdiction shall be made as the supreme court may determine. A majority of the judges of a division shall constitute a quorum thereof, and all orders, judgments and decrees of either division, as to causes and matters pending before it, shall have the force and effect of those of the court.

SEC. 2. Upon the adoption of this amendment, the governor shall appoint two additional judges of the supreme court, who shall hold their offices until the first Monday in January, 1893, and at the general election in the year 1892 their successors shall be elected, who shall hold their offices for the term of ten years, as other judges of the supreme court. The two judges appointed by the governor, together with the judge elected at the general election in the year 1890, shall constitute division number two, and the remaining judges shall constitute division number one. The court shall elect its chief justice and each division a presiding judge thereof.

SEC. 3. The supreme court shall assign to each division the causes and matters to be heard by it, of which assignment due public notice shall be given, and all laws relating to practice in the supreme court, as well as the rules of the supreme court, shall apply to each division so far as they may be applicable thereto. The opinion of each division shall be in writing, and shall be filed in the causes in which they shall

be respectively made during the term at which the cause is submitted, and such opinions shall be a part of the records of the supreme court. Each division shall have authority to issue the original writs and exercise the powers enumerated in section three of article six of the constitution.

SEC. 4. When the judges of a division are equally divided in opinion in a cause, or when a judge of a division dissents from the opinion therein, or when a federal question is involved, the cause, on the application of the losing party, shall be transferred to the court for its decision; or when a decision in which a cause is pending shall so order, the cause shall be transferred to the court for its decision.

SEC. 5. Whenever in the opinion of the supreme court the state of its docket with reference to the speedy disposition of the business of the court will justify dispensing with the divisions hereinbefore provided, the court shall dispense therewith, and the court shall thereafter hear and determine all causes pending in it: Provided, however, that the court shall have the power to again divide itself into two divisions, in like manner and with like power and effect as hereinbefore provided, whenever in the opinion of six judges thereof, entered of record, the condition of its docket with reference to the speedy disposition of the business of the court shall so require; and in such division the four judges oldest in commission shall constitute division number one, and the remaining judges division number two.

SEC. 7. All provisions of the constitution of the state, and all laws thereof not consistent with this amendment, shall upon its adoption be forever rescinded and of no effect.

(November, 1892)

SECTION 1. That section 47, of article 4 of the constitution, be amended by adding thereto the following words, to wit: *Provided*, that this shall not be so construed as to prohibit the general assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department—said fund to be taken from the municipal revenue of such cities, villages or incorporated towns.

(November 6, 1900)

#### REVENUE AND TAXATION

SECTION 1. In addition to taxes authorized to be levied for county purposes under and by virtue of section eleven, article 10 of the constitution of this state not under township organization, and the township board of directors in the several counties under township organization, may in their discretion, levy and collect a special tax not exceeding fifteen cents on each one hundred dollars valuation, to be used for road and bridge purposes, but for no other purpose whatever; and the power hereby given said county courts and township boards is declared to be a discretionary power. This constitutional amendment shall not apply to the cities of St. Louis, Kansas City and St. Joseph.

(November 6, 1900)

ART. 2. SEC. 28. The right of trial by jury, as heretofore enjoyed, shall remain inviolate, but a jury for the trial of civil and criminal cases in courts not of record, may consist of less than twelve men as may be prescribed by law; and that a two-thirds majority of such number prescribed by law concurring may render a verdict in all civil cases; and of the members of the jury concurring in courts of record three-fourths of the members of the jury concurring may render a verdict. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill.

(November 6, 1900)

ART. 2. SEC. 2. (Struck out and in lieu thereof:)

“SEC. 2. No person shall be prosecuted criminally for felony or misdemeanor otherwise than by indictment or information, which shall be concurrent remedies, but this shall not be construed to apply to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger.”

(November 6, 1902)

ART. 2. SEC. 28. Trial by jury inviolate—grand jury, twelve men.—The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but a jury for the trial of criminal or civil cases, in court[s] not of record, may consist of less than twelve men, as may be prescribed by law. Hereafter a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill: Provided, however, that no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime.

(Adopted November 6, 1900; declared unconstitutional by supreme Court and repealed by constitutional amendment adopted at the November election, 1902.)

SECTION 1. That article ten (10) of the constitution of the State of Missouri be and the same is hereby amended by adding thereto two (2) new sections to be known as sections 22 and 23, which are in words and figures as follows:

“SEC. 22. A mortgage, deed of trust, contract or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby, except as to railroad and other quasi public corporations, for which provision has already been made by law; in cases of debts so secured, the value of the property affected by such mortgage, deed of trust, contract or obligation, less the value of such security, shall be assessed and taxed to the owner of the property, in the manner herein after to be provided by law, and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or other local subdivision in which the property affected thereby is situate. The taxes so levied shall be a lien upon the

property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof; Provided that in all such cases the interest of the owner of the security, as well as that of the owner of the property affected by such mortgage, deed of trust, contract or obligation, shall be assessed on terms equally fair and just. If the note or other obligation secured, is entitled to a credit by payment made on the principal thereof, the assessable value of the owner of the security, upon the fact being made known to the assessor prior to the assessment, shall be diminished by the amount of such payment, and the assessable value of the owner of the land or other property, correspondingly increased, the intent hereof being to place those interested in any way in such land or other property, on the plane of absolute equality as to taxation.

“SEC. 23. Every contract hereafter made by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or lien, shall, as to any interest specified therein and as to such tax or assessment, be null and void.”

(November 6, 1900)

ART. 10. SEC. 12. (Amended by the addition thereto of the following words:)

“And further provided.”

(November 6, 1900)

ART. 10. SEC. 12. (The following added thereto:)

“And provided further, that the corporate authorities of the city of St. Louis are hereby authorized to issue interest bearing bonds of said city in the amount of five million dollars, at a rate of interest not to exceed four per cent. per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the corporation organized for the celebration of the Louisiana purchase centennial in said city, to be used by said corporation for said celebration, in holding a World's Fair or Exposition in said city. And said corporate authorities of St. Louis shall be repaid as large a proportionate amount of the aid given by them as shall be repaid to the stockholders of said corporation on the sum subscribed and paid by them, and any surplus remaining from the assets of said corporation after said stockholders and said city shall have been paid in full, shall be divided between said stockholders and said city in proportion to the aggregate amount of said stock so paid in and the amount so loaned by said city; and any amount so received by said city from said corporation shall be paid into the sinking fund of said city for the redemption of its outstanding bonds: Provided, that if at the election for the adoption of this amendment to the constitution a majority of the votes cast within the limits of said city of St. Louis voting for and against this amendment, shall be against its adoption, then no bonds shall be issued under this amend-

ment; and provided further, that no such indebtedness so created shall be in any part thereof paid by the state or from any state revenue, tax or fund, but the same shall be paid by the city of St. Louis alone."

(November 6, 1900)

ART. 4. SEC. 45. (The following added thereto:)

"Provided, that the general assembly shall have the power to appropriate from funds in the state sinking fund, being the proceeds of the tax authorized under section 14 of article X of the constitution, to an amount not exceeding one million dollars for the exhibition of the resources, products and industries of the state in the centennial celebration of the Louisiana purchase in the city of St. Louis."

(November 4, 1902)

SECTION 1. That article ten (10) of the constitution of the state of Missouri be and the same is hereby amended by adding thereto one new section to be known as Section 24, which is in words and figures as follows:

SEC. 24. Sections twenty-two (22) and twenty-three (23) of article ten (10) of the constitution of the State of Missouri concerning taxation, and the same are hereby repealed.

(November 4, 1902)

ART. 10. SEC. 26. All certificates of indebtedness of the state to the "public school fund" and to the "seminary fund" are hereby confirmed as sacred obligations of the state to said funds and they shall be renewed as they mature for such period of time and at such rate of interest as may be provided for by law. The general assembly shall have the power to provide by law for the issuing certificates to the public school fund and seminary fund as the money belonging to said funds accumulates in the state treasury: Provided, that after the outstanding bonded indebtedness has been extinguished, all money accumulating in the state treasury for the above named purposes, shall be invested in registered county, municipal, or school district bonds of this state of not less than par value. Whenever the state bonded debt is extinguished, or a sum sufficient therefor has been received, there shall be levied and collected in lieu of the ten cents on the one hundred dollars valuation now provided for by the statutes, an annual tax not to exceed three cents on the one hundred dollars valuation to pay the accruing interest on all the certificates of indebtedness, the proceeds of which tax shall be paid into the state treasury and appropriated and paid out for the specific purpose herein mentioned.

(November 4, 1902)

ART. 10. SEC. 11. (Add thereto after the word "indebtedness" in the last line of said section, the following:)

"Provided that the city of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if the said city were a part of a county."



(November 4, 1902)

ART. IX. SEC. 22. (Repealed, and the following enacted in lieu thereof:)

“SEC. 22. The charter so ratified may be amended by proposals therefor submitted by the lawmaking authorities of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and accepted by three-fifths of the qualified voters voting for or against each of said amendments so submitted; and the lawmaking authorities of such city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new charter for such city, which said charter shall be in harmony with and subject to the constitution and laws of the State, and shall provide, among other things, for a chief executive, and at least one house of legislation to be elected by general ticket. Said revised charter shall be submitted to the qualified voters of such city at an election to be held not less than twenty nor more than thirty days after the order therefor, and if a majority of such qualified voters voting at such election ratify such charter, then said charter shall become the organic law of such city, and sixty days thereafter shall take effect and supersede the charter of such city and all special laws inconsistent therewith.”

(November 4, 1902)

ART. X. SEC. 12. (Add after the word “same,” in the last line of said section, the following:)

“Provided, that in the city of St. Louis the amount of bonds now aggregating \$6,111,000, that being the amount assumed by said city in the scheme of separation from the county of St. Louis, and the sum of \$5,808,000 heretofore prior to January 1, 1901, expended in the construction of waterworks for the city of St. Louis, and any bonds which may be hereafter issued by said city in the construction and improvement of waterworks, the payment of the interest whereon and the principal whereof shall be provided from the revenues of said waterworks; that is to say, the amount of said bonds which shall be outstanding at any time shall not be included in the computation of the existing bonded indebtedness in determining the amount of bonds authorized to be issued by said city with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid to an amount including outstanding indebtedness other than that above named, to the amount of five per cent. of the value of the taxable property in said city, to be ascertained as above provided, and said city shall have power, with such assent of the voters, to issue bonds for the construction and improvement of waterworks, the interest whereon and the principal whereof shall be provided for from the income of said waterworks. Said city shall establish a sinking fund for the payment of the bonds so authorized according to the times fixed from the maturity of the same: Provided, further, that in the city of Kansas City, the amount of bonds issued by said city, bearing date July 1, 1895, for acquiring waterworks and all bonds hereafter issued in renewal of said bonds or any portion thereof shall not be included in the computation of the existing bonded indebtedness of said city in determining the amount of bonds authorized to be

issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid to an amount including outstanding indebtedness, other than that above named, to the amount of five per centum of the value of the taxable property in said city to be ascertained as above specified."

(November 4, 1902)

ART. X. SEC. 11. Amended by striking out the following sentence contained in the twenty-third and twenty-fourth lines of said section: "For school purposes in districts, the annual rate on property shall not exceed forty cents on the hundred dollars valuation," and inserting in lieu thereof the following sentence:)

"For school purposes in districts composed of cities, which have one hundred thousand inhabitants or more the annual rate on property shall not exceed sixty cents on the hundred dollars valuation; and in other districts, forty cents on the hundred dollars valuation."

(November 4, 1902)

ART. IX. SEC. 8. (Amended so as to read:)

"SEC. 8. Township organization—county justices.—The general assembly may provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting upon that proposition, at any general election, shall so determine, and whenever any county shall adopt township organization so much of this constitution as provides for the management of county affairs, and the assessment and collection of revenue by county officers in conflict with such general law for township organization may be dispensed with, and the business of said county and the local concerns of the several townships therein, may be transacted in such manner as may be prescribed by law: Provided, that the justices of the county court in such cases shall not exceed three in number."

(November 4, 1902)

ART. X. SEC. 12a. Any city in the state containing not more than thirty thousand (30,000) nor less than two thousand (2,000) inhabitants, may, with the assent of two-thirds of the voters thereof voting at an election to be held for that purpose be allowed to become indebted in a larger amount than specified in Section 12, of Article ten (X) of the constitution of the state, not exceeding an additional five (5) per centum on the value of the taxable property therein, for the purpose of purchasing or constructing waterworks, electric or other light plants, to be owned exclusively by the city so purchasing or constructing the same: Provided, that any such city incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this constitution, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same, any provision in this constitution to the contrary, notwithstanding.<sup>a</sup>

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<sup>a</sup> Laws of Missouri, 1905, pp. 313-325.



# MONTANA

For organic acts issued before 1864 relating to the land now included within Montana see in this work :

- Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
- District of Louisiana, 1804 (Louisiana, p. 1364).
- Territory of Louisiana, 1805 (Louisiana, p. 1371).
- Territory of Missouri, 1812 (Missouri, p. 2139).
- Convention with Great Britain, 1818 (Oregon, p. 2983).
- Convention with Russia, 1824 (Oregon, p. 2983).
- Act for Government of the Indian Country, 1834 (Indian Territory, p. 1097).
- Treaty with Great Britain, 1846 (Oregon, p. 2985).
- Territory of Oregon, 1848 (Oregon, p. 2986).
- Territory of Washington, 1853 (Washington, p. 3963).
- Territory of Nebraska, 1854 (Kansas, p. 1161).
- Territory of Idaho, 1863 (Idaho, p. 905).

## TEMPORARY GOVERNMENT FOR THE TERRITORY OF MONTANA— 1864 <sup>a</sup>

[THIRTY-EIGHTH CONGRESS, FIRST SESSION]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all that part of the territory of the United States included within the limits, to wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky Mountains; thence following the crest of the

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<sup>a</sup> For other statutes of an organic nature relating to Montana subsequent to 1864 see an act to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, revive legislative powers, and reorganize the legislature, March 2, 1867; to fix the term of office of territorial house of representatives and to provide for biennial elections, March 1, 1869; to empower legislature to pass general laws for the incorporation of certain companies, June 10, 1872; to limit the duration of sessions of legislative sessions and to fix the pay of members, January 23, 1873; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to reapportion members of legislature, June 3, 1880; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to reorganize courts, July 10, 1886; to prohibit various forms of special legislation, July 30, 1886.

Rocky Mountains northward till its intersection with the Bitter Root Mountains; thence northward along the crest of said Bitter Root Mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Montana, until said tribe shall signify their assent to the President of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Montana shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said territory, and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offences against the laws of said territory, and reprieve for offences against the laws of the United States until the decision of the President of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the



United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such a manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative

assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, districts, and county offices, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was

elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum; and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decision of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, of the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive, in all such

cases, the same fees which the clerks of the district courts of Washington Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Washington, and shall, in addition, be paid two hundred dollars annually, as a compensation for extra services. There shall also be appointed by the President of the United States, by and with the advice and consent of the Senate, a surveyor-general for said territory, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensations, and allowances for clerk-hire, office-rent, fuel, and incidental expenses, shall be the same as those of the surveyor-general of New Mexico, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give.

SEC. 11. *And be it further enacted*, That the governor, the secretary, chief justice, and associate justices, attorney, and marshal shall be appointed by the President of the United States, by and with the advice and consent of the Senate. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the Territory of Idaho, who has not yet taken the oath of office, as prescribed by the acts organizing said territory, may take oath or affirmation



before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day during their attendance at the sessions thereof, and four dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually travelled route; and an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and doorkeeper, may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by



the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the time and places, and manner of holding the elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said Territory of Montana as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby reserved for the purpose of being applied to schools in said territory and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the President of the United States, by and with the advice and consent of the Senate, for the Territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and in such manner as the Secretary of the Treasury may prescribe.

SEC. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of said agencies or superintendencies.

SEC. 18. *And be it further enacted*, That, until congress shall otherwise direct, all that part of the Territory of Idaho included within the following boundaries, to wit: Commencing at a point formed by

the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree of latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into and made part of the Territory of Dakota.

Approved, May 26, 1864.

## ENABLING ACT FOR MONTANA—1889

[FIFTY-FIRST CONGRESS, FIRST SESSION]

An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states

[SECTION 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:* That the inhabitants of all that part of the area of the United States now constituting the Territories of Dakota, Montana and Washington, as at present described, may become the States of North Dakota, South Dakota, Montana and Washington, respectively, as hereinafter provided.

SEC. 2. The area comprising the Territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel shall assemble in convention, at the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

SEC. 3. That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories, respectively, persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states, in such districts as may be established as herein provided, in proportion to the population of each of such counties and districts.

as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the governor, and chief justice, and the secretary of said territories; and the governors of said territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, eighteen hundred and eighty-nine, which proclamation shall be issued on the fifteenth day of April, eighteen hundred and eighty-nine; and such election shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such convention issued in the same manner as is prescribed by the laws of said territories regulating elections therein for delegates to congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions, respectively, shall be seventy-five; and all persons residents in said proposed states, who are qualified voters of said territories as herein provided, shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe, not in conflict with this act, upon the ratification or rejection of the constitutions.

SEC. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the fourth day of July, eighteen hundred and eighty-nine, and, after organization, shall declare, on behalf of the people of said proposed states, that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby, authorized to form constitutions and state governments for said proposed states, respectively. The constitutions shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said states: *First:* That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said states shall ever be molested in person or property on account of his or her mode of religious worship. *Second:* That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to

or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto, by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe. *Third:* That the debts and liabilities of said territories shall be assumed and paid by said states, respectively. *Fourth:* That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said states and free from sectarian control.

SEC. 5. That the convention which shall assemble at Bismarck shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a constitution and state government for a state to be known as South Dakota: *Provided*, That at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words "For the Sioux Falls Constitution," or the words "Against the Sioux Falls Constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section three of this act; and if a majority of all votes cast on this shall be "For the Sioux Falls Constitution," it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to re-submit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the constitution framed at Sioux Falls, and adopted November third, eighteen hundred and eighty-five, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the reapportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act, and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution, irrespective of the articles separately submitted, the State of South Dakota shall be admitted as a state in the Union under said constitution as hereinafter provided; but the archives, records, and books of the Territory of Dakota shall remain at Bismarck, the capital of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota a majority of all the votes cast at that election shall be "Against the Sioux Falls Constitution," then and in that event [it] shall be the duty of the convention which will assemble at the city of Sioux Falls on the fourth day of July, eighteen hundred and eighty-nine, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.



SEC. 6. It shall be the duty of the constitutional conventions of North Dakota and South Dakota to appoint a joint commission, to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also adjust and agree upon the amount of the debts and liabilities of the territory which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the territory so rejecting its proposed constitution shall continue under the territorial government of the present Territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the Territory of North Dakota, or South Dakota, as the same may be: *Provided*, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of eighteen hundred and eighty-five, after having amended the same as provided in section five of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana and Washington shall provide in like manner for submitting the constitutions



formed by them to the people of said proposed states, respectively, for ratification or rejection at elections to be held in said proposed states on said first Tuesday in October. At the elections provided in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided shall be deemed admitted by congress into the Union, under and by virtue of this act, on an equal footing with the original states, from and after the date of said proclamation.

SEC. 9. That until the next general census, or until otherwise provided by law, said states shall be entitled to one representative in the house of representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the fifty-first congress, together with the governors and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

SEC. 10. That upon the admission of each of said states into the Union, sections numbered sixteen and thirty-six in every township of said proposed states, and where such section, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior: *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character, be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part of, the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than

ten dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulation as the legislatures shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such land shall not be subject to preëmption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said states into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions, as provided in section ten of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive and judicial purposes.

SEC. 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

SEC. 14. That the lands granted to the territories of Dakota and Montana by the act of February eighteenth, eighteen hundred and eighty-one, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming for university purposes," are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the Union, as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said land that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July seventeenth, eighteen hundred and fifty-four, to be reserved for university purposes in the Territory of Washington, as, together with the lands confirmed to the vendees of the territory by the act of March fourteenth, eighteen hundred and sixty-four, will make the full quantity of seventy-two entire sections, are hereby granted in the like manner to the State of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than ten dollars per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges and universities provided for in this act shall forever remain under the exclusive control of the said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be for the support of any sectarian or denominational school, college or uni-

versity. The section of land granted by the act of June sixteenth, eighteen hundred and eighty, to the Territory of Dakota for an asylum for the insane shall, upon the admission of said State of South Dakota into the Union, become the property of said state.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "An act appropriating money for the erection of a penitentiary in the Territory of Dakota," approved March second, eighteen hundred and eighty-one, together with the buildings thereon, be and the same is hereby granted, together with any unexpended balances of the moneys appropriated therefor, by said act, to said State of South Dakota, for the purposes therein designated; and the states of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March second, eighteen hundred and eighty-one, for the Territory of Dakota. The penitentiary at Deer Lodge City, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the State of Montana.

SEC. 16. That ninety thousand acres of land, to be selected and located as provided in section ten of this act, are hereby granted to each of said states, except to the State of South Dakota, to which one hundred and twenty thousand acres are granted, for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purpose.

SEC. 17. That in lieu of the grant of land for purposes of internal improvement[s] made to new states by the eighth section of the act of September fourth, eighteen hundred and forty-one, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the revised statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline lands to said states, the following grants of land are hereby made, to wit: To the State of South Dakota: For the school of mines, forty thousand acres; for the reform school, forty thousand acres; for the deaf and dumb asylum, forty thousand acres; for the agricultural college, forty thousand acres; for the university, forty thousand acres; for state normal schools, eighty thousand acres; for public buildings at the capital of said state, fifty thousand acres, and for such other educational and charitable purposes as the legislature of said state may determine, one hundred and seventy thousand acres; in all five hundred thousand acres. To the State of North Dakota a like quantity of land as is in this section granted to the State of South Dakota; and to be for like purposes, and in like proportion as far as practicable. To the State of Montana: For the establishment and maintenance of a school of mines, one hundred thousand acres; for state normal schools, one hundred thousand acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, fifty thousand acres; for the establishment of a state reform school, fifty thousand acres; for the establishment of a deaf and dumb asylum, fifty thousand acres; for public buildings at the capital of the state, in addition to the grant

hereinbefore made for that purpose, one hundred and fifty thousand acres. To the State of Washington: For the establishment and maintenance of a scientific school, one hundred thousand acres; for state normal schools, one hundred thousand acres; for public buildings at the state capital, in addition to the grant hereinbefore made for that purpose, one hundred thousand acres; for state charitable, educational, penal and reformatory institutions, two hundred thousand acres. That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six or any subdivisions or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and the benefit of the common schools of said states.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

SEC. 20. That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota, for which the sum of forty thousand dollars is so appropriated, twenty thousand dollars each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit, except Washington and Montana, which shall be attached to the ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. The judge of each of said districts shall receive a yearly salary of three thousand five hundred dollars, payable in four equal



installments, on the first day of January, April, July and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Nebraska.

SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require: *Provided*, That the mandate of execution or of further proceedings shall, in cases arising in the Territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the State of South Dakota, or of the circuit or district court of the district of North Dakota, or to the supreme court of the State of North Dakota, or to the supreme court of the Territory of North Dakota, as the nature of the case may require. And each of the circuit, district and state courts, herein named, shall, respectively, be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the Union.

SEC. 23. That in respect to all cases, proceedings and matters now pending in the supreme or district courts of either of the territories



mentioned in this act, at the time of the admission into the Union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in the act at the time of the admission of such territory into the Union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments, and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that, prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district or state court, as the case may be: *Provided, however,* That in all civil actions, causes, and proceedings, in which the United States is not a party, transfer shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper state courts.

SEC. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the fifty-first congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union, respectively, as provided in this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two senators of the United States; and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in the manner required by law; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of such state officers; and all laws in force, made by said territories at the time of their admission into the Union, shall be in force in said states, except as modified or changed by this act or by the constitutions of the states, respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

Approved February 22, 1889.

**PROCLAMATION ANNOUNCING ADMISSION OF MONTANA—1889**

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

**A PROCLAMATION**

Whereas the Congress of the United States did by an act approved on the twenty-second day of February one thousand eight hundred and eighty-nine, provide that the inhabitants of the Territory of Montana might, upon the conditions prescribed in said act, become the State of Montana;

And whereas it was provided by said act that delegates elected as therein provided, to a Constitutional convention in the Territory of Montana, should meet at the seat of government of said Territory; and that, after they had met and organized they should declare on behalf of the people of Montana that they adopt the Constitution of the United States; whereupon the said convention should be authorized to form a State Government for the proposed State of Montana;

And whereas it was provided by said act that the Constitution so adopted should be republican in form and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence; and that the Convention should by an ordinance irrevocable without the consent of the United States and the people of said State make certain provisions prescribed in said act;

And whereas it was provided by said act that the Constitution thus formed for the people of Montana should, by an ordinance of the Convention forming the same, be submitted to the people of Montana at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine, for ratification or rejection by the qualified voters of said proposed State; and that the returns of said election should be made to the Secretary of said Territory, who, with the Governor and Chief Justice thereof, or any two of them, should canvass the same; and if a majority of the legal votes cast should be for the Constitution, the Governor should certify the result to the President of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions and a copy of said Constitution, articles, propositions and ordinances;

And whereas it has been certified to me by the Governor of said Territory that within the time prescribed by said act of Congress a Constitution for the proposed State of Montana has been adopted and that the same, together with two ordinances connected therewith, has been ratified by a majority of the qualified voters of said proposed State in accordance with the conditions prescribed in said act;

And whereas a duly authenticated copy of said Constitution and ordinances, as required by said act, has been received by me;

Now, therefore, I, Benjamin Harrison, President of the United States of America, do, in accordance with the provisions of the act of Congress aforesaid, declare and proclaim the fact that the conditions imposed by Congress on the State of Montana to entitle that

State to admission to the Union have been ratified and accepted and that the admission of the said State into the Union is now complete.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this eighth (8th) day of November, in the year of our Lord one thousand eight hundred and [SEAL.] eighty-nine, and of the Independence of the United States of America the one hundred and fourteenth.

BENJ. HARRISON.

By the President:

JAMES G. BLAINE,  
*Secretary of State.*

## CONSTITUTION OF MONTANA—1889 \*

### PREAMBLE

We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a State government, do, in accordance with the provisions of the Enabling Act of Congress, approved the twenty-second of February, A. D. 1889, ordain and establish this constitution.

### ARTICLE I

#### BOUNDARIES

SECTION 1. The boundaries of the State of Montana shall be as follows, to-wit: Beginning at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude, thence due west on the forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington, thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky Mountains, thence following the crest of the Rocky Mountains northward to its intersection with the Bitter Root Mountains; thence northward along the crest of the Bitter Root Mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along that boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude to the place of beginning.

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\* Verified from "Constitution of the State of Montana, as adopted by the Constitutional Convention held at Helena, Montana, July 4, A. D. 1889, and ending August 17, A. D. 1889. And also an address to the people. Published by authority by the Independent Publishing Co., Helena, Montana."

## ARTICLE II

## MILITARY RESERVATIONS

SECTION 1. Authority is hereby granted to and acknowledged in the United States to exercise exclusive legislation as provided by the Constitution of the United States, over the military Reservations of Fort Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the Legislative Assembly of the State of Montana; and the Legislative Assembly is authorized and directed to enact any law necessary or proper to give effect to this article.

*Provided*, That there be and is hereby reserved to the State the right to serve all legal process of the State, both civil and criminal, upon persons and property found within any of said reservations in all cases where the United States has not exclusive jurisdiction.

## ARTICLE III

## A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA

SECTION 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only and is instituted solely for the good of the whole.

SEC. 2. The people of the State have the sole and exclusive right of governing themselves, as a free, sovereign and independent State, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the Constitution of the United States.

SEC. 3. All persons are born equally free, and have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed, and no person shall be denied any civil or political right or privilege on account of his opinions concerning religion, but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, by bigamous or polygamous marriage, or otherwise, or justify practices inconsistent with the good order, peace or safety of the State, or opposed to the civil authority thereof, or of the United States. No person shall be required to attend any place of worship or support any ministry, religious sect or denomination, against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character; and that right and justice shall be administered without sale, denial or delay.

SEC. 7. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. Criminal offenses of which justices courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment, by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall in his discretion consider it necessary, and shall so order.

SEC. 9. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the Legislative Assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

SEC. 11. No ex post facto law, nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities shall be passed by the legislative assembly.

SEC. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

SEC. 13. The right of any person to keep or bear arms in defense of his own home, person and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner.

SEC. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution or other beneficial use and the right of way over the lands of others, for all ditches, drains, flumes, canals and aqueducts, necessarily used in connection



therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount together with the expenses of the proceeding shall be paid by the person to be benefitted.

SEC. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the State to have a change of venue for any of the causes for which the defendant may obtain the same.

SEC. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the State.

SEC. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense.

SEC. 19. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

SEC. 21. The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

SEC. 22. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived, or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court both in civil cases and in cases of criminal misdemeanor shall consist of not more than six persons. In all civil actions and in all criminal cases not amounting to a felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all of such jury concurred therein.

SEC. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect

the power of the legislative assembly to provide for punishing offenses by death.

SEC. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit and inherit mines and mining property, and milling, reduction, concentrating and other works, and real property necessary for or connected with the business of mining and treating ores and minerals; *Provided*, That nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

SEC. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

SEC. 27. No person shall be deprived of life, liberty or property without due process of law.

SEC. 28. There shall never be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 29. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 30. The enumeration in this Constitution of certain rights, shall not be construed to deny, impair or disparage others retained by the people.

SEC. 31. No armed person or persons or armed body of men shall be brought into this State for the preservation of the peace or the suppression of domestic violence, except upon the application of the legislative assembly or of the governor when the legislative assembly cannot be convened.

## ARTICLE IV

### DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of this State are divided into three distinct departments: The Legislative, Executive, and Judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

## ARTICLE V

### LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power shall be vested in a Senate and House of Representatives, which shall be designated "The Legislative Assembly of the State of Montana."

SEC. 2. Senators shall be elected for the term of four years, and Representatives for the term of two years, except as otherwise provided in this Constitution.

SEC. 3. No person shall be a Representative who shall not have attained the age of twenty-one years, or a Senator who shall not

have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

SEC. 4. The Legislative Assembly of this State, until otherwise provided by law, shall consist of sixteen members of the Senate, and fifty-five members of the House of Representatives.

It shall be the duty of the first Legislative Assembly to divide the State into senatorial and representative districts, but there shall be no more than one Senator from each county. The Senators shall be divided into two classes. Those elected from odd numbered districts shall constitute one class, and those elected from even numbered districts shall constitute the other class; and when any additional Senator shall be provided for by law his class shall be determined by lot.

One-half of the Senators elected to the first Legislative Assembly shall hold office for one year, and the other half for three years; and it shall be determined by lot immediately after the organization of the Senate, whether the Senators from the odd or even numbered districts shall hold for one or three years.

SEC. 5. Each member of the first Legislative Assembly, as a compensation for his services shall receive six dollars for each day's attendance, and twenty cents for each mile necessarily traveled in going to and returning from the seat of government to his residence by the usually traveled route, and shall receive no other compensation, perquisite or allowance whatsoever.

No session of the Legislative Assembly, after the first, which may be ninety days, shall exceed sixty days.

After the first session, the compensation of the members of the Legislative Assembly shall be as provided by law; *Provided*, That no Legislative Assembly shall fix its own compensation.

SEC. 6. The Legislative Assembly, (except the first) shall meet at the seat of government at twelve o'clock, noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock, noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the Governor.

The term of service of the members thereof shall begin the next day after their election, until otherwise provided by law; *Provided*, That the first Legislative Assembly shall meet at the seat of government upon the proclamation of the Governor after the admission of the State into the Union, upon a day to be named in said proclamation, and which shall not be more than fifteen nor less than ten days after the admission of the State into the Union.

SEC. 7. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office under the State; and no member of Congress, or other person holding an office (except Notary Public, or in the militia) under the United States or this State, shall be a member of either house during his continuance in office.

SEC. 8. No member of either house, shall, during the term for which he shall have been elected, receive any increase of salary or mileage under any law passed during such term.

SEC. 9. The Senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members President, *pro tempore*. The House of Representatives shall elect one of its members Speaker. Each house shall choose its other officers, and shall judge of the elections, returns, and qualifications of its members.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the Legislative Assembly of a free State.

A member expelled for corruption shall not thereafter be eligible to either house of the Legislative Assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 12. Each house shall keep a journal of its proceedings and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question, shall, at the request of any two members, be entered on the journal.

SEC. 13. The sessions of each house and of the committees of the whole shall be open unless the business is such as requires secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. The members of the Legislative Assembly shall, in all cases, except treason, felony, violation of their oath of office and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. The sole power of impeachment shall vest in the House of Representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the Senate sitting for that purpose and the Senators shall be upon oath or affirmation to do justice according to law and evidence. When the Governor or Lieutenant Governor is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without a concurrence of two-thirds of the Senators elected.

SEC. 17. The Governor and other State and Judicial officers, except Justices of the Peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit under the laws of the State. The party whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

SEC. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly, of the State of Montana."

SEC. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage, the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

SEC. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, per centages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the State treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any cor-



poration or person to this State, or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, township or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the Legislative Assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

SEC. 28. The Legislative Assembly shall prescribe by law, the number, duties and compensation of the officers and employes of each house; and no payment shall be made from the State treasury, or be in any way authorized to any such person, except to an acting officer or employe elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the State without previous authority of law, except as may be otherwise provided herein.

SEC. 30. All stationery, printing, paper, fuel and lights used in the Legislative and other departments of government, shall be furnished, and the printing and binding and distribution of the laws, journals, and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the Legislative Assembly, and its committees shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the Governor and State Treasurer.

SEC. 31. Except as otherwise provided in this Constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment; *Provided*, That this shall not be construed to forbid the Legislative Assembly from fixing the salaries or emoluments of those officers first elected or appointed under this Constitution, where such salaries or emoluments are not fixed by this Constitution.

SEC. 32. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose amendments, as in the case of other bills.

SEC. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the Legislative, Executive and Judicial departments of the State, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 34. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.

SEC. 35. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

SEC. 36. The Legislative Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal functions whatever.

SEC. 37. No act of the Legislative Assembly shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

SEC. 38. The Legislative Assembly shall have no power to pass any law authorizing the State, or any county in the State, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.

SEC. 39. No obligation or liability of any person, association or corporation, held or owned by the State, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the Legislative Assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

SEC. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the Governor, and before it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

SEC. 41. If any person elected to either house of the Legislative Assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the Legislative Assembly, in consideration or upon condition that any other person elected to the same Legislative Assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition pending or proposed to be introduced into such Legislative Assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the Legislative Assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such Legislative Assembly, or offer, promise or assent so to, upon condition that any other member will give, or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such Legislative Assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such Legislative Assembly, he shall be deemed guilty of bribery, and any member of the Legislative Assembly, or person elected thereto, who shall be guilty of either such offenses, shall be expelled and shall not thereafter be eligible to the Legislative Assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 42. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or per-

sonal advantage, to any executive or judicial officer or member of the Legislative Assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 43. The offense of corrupt solicitation of members of the Legislative Assembly, or of public officers of the State, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punishable by fine and imprisonment.

SEC. 44. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislative Assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 45. When vacancies occur in either house the Governor or the person exercising the functions of the Governor shall issue writs of election to fill the same.

## ARTICLE VI

### APPORTIONMENT AND REPRESENTATION

SECTION 1. One Representative in the Congress of the United States shall be elected from the State at large, the first Tuesday in October 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress the Legislative Assembly shall divide the State into Congressional districts accordingly.

SEC. 2. The Legislative Assembly shall provide by law for an enumeration of the inhabitants of the State in the year 1895 and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for Representatives on the basis of such enumeration according to ratios to be fixed by law.

SEC. 3. Representative districts may be altered from time to time as public convenience may require. When a Representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of Representative districts.

SEC. 4. Whenever new counties are created, each of said counties shall be entitled to one Senator, but in no case shall a Senatorial district consist of more than one county.

SEC. 5. The Senatorial districts of the State shall be constituted and numbered as follows:

The county of Beaverhead shall constitute the First district, and be entitled to one Senator.

The county of Madison shall constitute the Second district, and be entitled to one Senator.

The county of Gallatin shall constitute the Third district, and be entitled to one Senator.

The county of Jefferson shall constitute the Fourth district, and be entitled to one Senator.

The county of Deer Lodge shall constitute the Fifth district, and be entitled to one Senator.

The county of Missoula shall constitute the Sixth district, and be entitled to one Senator.

The county of Lewis and Clarke shall constitute the Seventh district, and be entitled to one Senator.

The county of Choteau shall constitute the Eighth district, and be entitled to one Senator.

The county of Meagher shall constitute the Ninth district, and be entitled to one Senator.

The county of Silver Bow shall constitute the Tenth district, and be entitled to one Senator.

The county of Custer shall constitute the Eleventh district, and be entitled to one Senator.

The county of Yellowstone shall constitute the Twelfth district, and be entitled to one Senator.

The county of Dawson shall constitute the Thirteenth district, and be entitled to one Senator.

The county of Fergus shall constitute the Fourteenth district, and be entitled to one Senator.

The county of Park shall constitute the Fifteenth district, and be entitled to one Senator.

The county of Cascade shall constitute the Sixteenth district, and be entitled to one Senator.

SEC. 6. Until an apportionment of Representatives be made in accordance with the provisions of this Article, they shall be divided among the several counties of the State in the following manner:

The county of Beaverhead shall have two (2).

The county of Madison shall have two (2).

The county of Gallatin shall have two (2).

The county of Jefferson shall have three (3).

The county of Deer Lodge shall have seven (7).

The county of Missoula shall have five (5).

The county of Lewis and Clarke shall have eight (8).

The county of Choteau shall have two (2).

The county of Meagher shall have two (2).

The county of Silver Bow shall have ten (10).

The county of Custer shall have two (2).

The county of Yellowstone shall have one (1).

The county of Fergus shall have two (2).

The county of Park shall have two (2).

The county of Cascade shall have two (2).

The counties of Dawson and Cascade shall have one (1) jointly.

The counties of Deer Lodge and Beaverhead shall have one (1) jointly.

The counties of Jefferson and Gallatin shall have one (1) jointly.

## ARTICLE VII

### EXECUTIVE DEPARTMENT

SECTION 1. The Executive department shall consist of a Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, State Auditor and Superintendent of Public Instruction, each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January

next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the State shall be admitted into the Union, and shall end on the first Monday of January A. D. 1893. The officers of the Executive department, excepting the Lieutenant Governor, shall during their terms of office reside at the seat of government where they shall keep the public records, books and papers. They shall perform such duties as are prescribed in this constitution and by the laws of the State. The State Treasurer shall not be eligible to his office for the succeeding term.

SEC. 2. The officers provided for in Section 1 of this article, shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislative Assembly, and the persons respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the Legislative Assembly, at its next regular session, shall forthwith by joint ballot, elect one of such persons for said office. The returns of election for the officers named in Section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

SEC. 3. No person shall be eligible to the office of Governor, Lieutenant Governor, or Superintendent of Public Instruction, unless he shall have attained the age of thirty years at the time of his election, nor to the office of Secretary of State, State Auditor, or State Treasurer, unless he shall have attained the age of twenty-five years, nor to the office of Attorney General unless he shall have attained the age of thirty years, and have been admitted to practice in the Supreme Court of the State, or Territory of Montana, and be in good standing at the time of his election. In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the State or Territory two years next preceding his election.

SEC. 4. Until otherwise provided by law, the Governor, Secretary of State, State Auditor, Treasurer, Attorney General and Superintendent of Public Instruction, shall quarterly as due, during their continuance in office, receive for their services compensation, which is fixed as follows:

Governor, five thousand dollars per annum;  
Secretary of State, three thousand dollars per annum;  
Attorney General, three thousand dollars per annum;  
State Treasurer, three thousand dollars per annum;  
State Auditor, three thousand dollars per annum;  
Superintendent of Public Instruction, two thousand five hundred dollars per annum.

The Lieutenant-Governor shall receive the same per diem as may be prescribed by law, for the Speaker of the Legislative Assembly, to be allowed only during the sessions of the Legislative Assembly.

The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive, for the performance of any official



duty, any fee for his own use, but all fees fixed by law for the performance by any officer of any official duty, shall be collected in advance, and deposited with the State Treasurer quarterly to the credit of the State. No officer mentioned in this section shall be eligible to, or hold any other public office, except member of the State Board of Education during his term of office.

SEC. 5. The supreme executive power of the State shall be vested in the Governor, who shall see that the laws are faithfully executed.

SEC. 6. The Governor shall be Commander-in-Chief of the militia forces of the State, except when these forces are in the actual service of the United States, and shall have power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

SEC. 7. The Governor shall nominate, and by and with the consent of the Senate, appoint all officers whose offices are established by this Constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during a recess of the Senate a vacancy occur in any such office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of Secretary of State, State Auditor, State Treasurer, Attorney General, or Superintendent of Public Instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

SEC. 8. The Legislative Assembly shall provide for a State Examiner, who shall be appointed by the Governor and confirmed by the Senate. His duty shall be to examine the accounts of State Treasurer, Supreme Court Clerks, District Court Clerks, and all County Treasurers, and Treasurers of such other public institutions as may be prescribed by law, and he shall perform such other duties as the Legislative Assembly may prescribe. He shall report at least once a year and oftener if required to such officers as may be designated by the Legislative Assembly. His compensation shall be fixed by law.

SEC. 9. The Governor shall have the power to grant pardons, absolute or conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction and judgment for any offenses committed against the criminal laws of this State; *Provided, however,* That before granting pardons, remitting fines and forfeitures, or commuting punishments, the action of the Governor concerning the same shall be approved by a Board, or a majority thereof, composed of the Secretary of State Attorney General and State Auditor, who shall be known as the Board of Pardons. The Legislative Assembly shall by law prescribe the sessions of said Board, and regulate the proceedings thereof. But no fine or forfeitures shall be remitted, and no commutation or pardon granted, except upon the approval of a majority of said Board after a full hearing in open session and until notice of the time and place of such hearing, and of the relief sought, shall have been given by publication in some newspaper of general circulation in the county where the crime was committed, at least once a week for two weeks. The proceedings and decisions of the Board shall be reduced to writing, and with their reasons for their action in each case, and the dissent of any member

who may disagree, signed by them and filed, with all papers used upon the hearing, in the office of the Secretary of State. The Governor shall communicate to the Legislative Assembly, at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of remission, commutation, pardon or reprieve, with the reasons for granting the same and the objections, if any, of any member of the Board made thereto.

SEC. 10. The Governor may require information in writing from the officers of the Executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of State institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or State institution. The Governor shall at the beginning of each session, and from time to time by message, give to the Legislative Assembly information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall also send to the Legislative Assembly a statement with vouchers of the expenditures of all moneys belonging to the State and paid out by him. He shall also at the beginning of each session present estimates of the amount of money required to be raised by taxation for all purposes of the State.

SEC. 11. He may on extraordinary occasions convene the Legislative Assembly by proclamation, stating the purposes for which it is convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the Governor, but may provide for the expenses of the session and other matters incidental thereto. He may also by proclamation, convene the Senate in extraordinary session for the transaction of Executive business.

SEC. 12. Every bill passed by the Legislative Assembly shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the Governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislative Assembly shall by their adjournment prevent its return in which case it shall not become a law, without the approval of the Governor. No

bill shall become a law after the final adjournment of the Legislative Assembly, unless approved by the Governor within fifteen days after such adjournment. In case the Governor shall fail to approve of any bill after the final adjournment of the Legislative Assembly it shall be filed, with his objections, in the office of the Secretary of State.

SEC. 13. The Governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts approved shall become a law, and the item or items disapproved shall be void, unless enacted in the manner following: If the Legislative Assembly be in session he shall within five days transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 14. In case of the failure to qualify, the impeachment or conviction of felony or infamous crime of the Governor, or his death, removal from office, resignation, absence from the State or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall cease, shall devolve upon the Lieutenant-governor.

SEC. 15. The Lieutenant-Governor shall be President of the Senate, but shall vote only when the Senate is equally divided. In case of the absence or disqualification of the Lieutenant-Governor, from any cause which applies to the Governor, or when he shall hold the office of Governor, then the president pro tempore of the Senate shall perform the duties of the Lieutenant-Governor until the vacancy is filled or the disability removed.

SEC. 16. In case of the failure to qualify in his office, death, resignation, absence from the State, impeachment, conviction of felony or infamous crime, or disqualification from any cause, of both the Governor and the Lieutenant-Governor, the duties of the Governor shall devolve upon the president pro tempore of the Senate until such disqualification of either the Governor or Lieutenant-Governor be removed, or the vacancy filled, and if the president pro tempore of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House.

SEC. 17. The first Legislative Assembly shall provide a seal for the State, which shall be kept by the Secretary of State and used by him officially, and known as the Great Seal of the State of Montana.

SEC. 18. All grants and commissions shall be in the name and by the authority of the State of Montana, sealed with the Great Seal of the State, signed by the Governor, and counter signed by the Secretary of State.

SEC. 19. An account shall be kept by the officers of the executive department, and of all public institutions of the State of all moneys received by them, severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report hereof shall be made to the Governor, under oath; they shall also, at least twenty days preceding each regular session

of the Legislative Assembly, make full and complete reports of their official transactions to the Governor, who shall transmit the same to the Legislative Assembly.

SEC. 20. The Governor, Secretary of State and Attorney General shall constitute a Board of State Prison Commissioners, which board shall have such supervision of all matters connected with the State prisons as may be prescribed by law. They shall constitute a Board of Examiners, with power to examine all claims against the State, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claims against the State except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislative Assembly without first having been considered and acted upon by said board. The Legislative Assembly may provide for the temporary suspension of the State Treasurer by the Governor, when the Board of Examiners deem such action necessary for the protection of the moneys of the State.

## ARTICLE VIII

### JUDICIAL DEPARTMENTS

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a court of impeachment, in a Supreme Court, District Courts, Justices of the Peace, and such other inferior courts as the Legislative Assembly may establish in any incorporated city or town.

SEC. 2. The Supreme Court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general supervisory control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The appellate jurisdiction of the Supreme Court shall extend to all cases at law and in equity, subject, however, to such limitations and regulations as may be prescribed by law. Said court shall have power in its discretion to issue and to hear and determine writs of habeas corpus, mandamus, quo-warranto, certiorari, prohibition and injunction, and such other original and remedial writs as may be necessary or proper to the complete exercise of its appellate jurisdiction. When a jury is required in the Supreme Court to determine an issue of fact, said court shall have power to summon such jury in such manner as may be provided by law. Each of the Justices of the Supreme Court shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of, any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any District Court of the State or any Judge thereof; and such writs may be heard and determined by the Justice or Court, or Judge, before whom they are made returnable. Each of the Justices of the Supreme Court may also issue and hear and determine writs of certiorari in proceedings for contempt in the District Court, and such other writs as he may be authorized by law to issue.

SEC. 4. At least three terms of the Supreme Court shall be held each year at the seat of government.

SEC. 5. The Supreme Court shall consist of three Justices, a majority of whom shall be necessary to form a quorum or pronounce a



decision, but one or more of said Justices may adjourn the Court from day to day, or to a day certain, and the Legislative Assembly shall have the power to increase the number of such Justices to not less nor more than five.

SEC. 6. The Justices of the Supreme Court shall be elected by electors of the State at large, as hereinafter provided.

SEC. 7. The term of office of the Justices of the Supreme court, except as in this constitution otherwise provided, shall be six years.

SEC. 8. There shall be elected at the first general election, provided for by this constitution, one Chief Justice and two Associate Justices of the Supreme Court. At said first election the Chief Justice shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the Associate Justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other Associate Justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said Justices, and which one shall be Chief Justice, shall at the first and all subsequent elections be designated by ballot. After said first election one Chief Justice or one Associate Justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the Legislative Assembly shall increase the number of Justices to five, the first terms of office of such additional Justices shall be fixed by law in such manner that at least one of the five Justices shall be elected every two years. The Chief Justice shall preside at all sessions of the Supreme Court, and in case of his absence, the Associate Justice having the shortest term to serve shall preside in his stead.

SEC. 9. There shall be a Clerk of the Supreme Court, who shall hold his office for the term of six years, except that the Clerk first elected shall hold his office only until the general election in the year one thousand eight hundred ninety two (1892), and until his successor is elected and qualified. He shall be elected by the electors at large of the State, and his compensation shall be fixed by law, and his duties prescribed by law, and by the rules of the Supreme Court.

SEC. 10. No person shall be eligible to the office of Justice of the Supreme Court, unless he shall have been admitted to practice law in the Supreme Court of the Territory or State of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said Territory or State at least two years next preceding his election.

#### DISTRICT COURTS

SEC. 11. The District Court shall have original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all cases in which the debt, damage, claim or demand, exclusive of interest, or the value of the property in controversy exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce and for



annulment of marriage, and for all such special actions and proceedings as are not otherwise provided for. And said courts shall have the power of naturalization, and to issue papers therefor, in all cases where they are authorized so to do by the laws of the United States. They shall have appellate jurisdiction in such cases arising in justices and other inferior courts in their respective districts as may be prescribed by law, and consistent with this constitution. Their process shall extend to all parts of the State, provided that all actions for the recovery of, the possession of, quieting the title to, or for the enforcement of liens upon real property, shall be commenced in the county in which the real property, or any part thereof, affected by such action or actions, is situated. Said courts and the judges thereof shall have power also to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction and other original and remedial writs, and also all writs of habeas corpus on petition by, or on behalf of, any person held in actual custody in their respective districts. Injunctions, writs of prohibition and habeas corpus, may be issued and served on legal holidays and non-judicial days.

SEC. 12. The State shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one Judge of the District Court, whose term of office shall be four years, except that the District Judges first elected shall hold their offices only until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. Any Judge of the District Court may hold court for any other District Judge, and shall do so when required by law.

SEC. 13. Until otherwise provided by law the judicial districts of the State shall be constituted as follows: First district, Lewis and Clarke county; Second district, Silver Bow county; third district, Deer Lodge county; Fourth district, Missoula county; Fifth district, Beaverhead, Jefferson and Madison counties; Sixth district, Gallatin, Park and Meagher counties; Seventh district, Yellowstone, Custer and Dawson counties; Eighth district, Choteau, Cascade and Fergus counties.

SEC. 14. The Legislative Assembly may increase or decrease the number of Judges in any Judicial district; *provided*, that there shall be at least one Judge in any district established by law; and may divide the State, or any part thereof, into new districts; *Provided*, that each be formed of compact territory and be bounded by county lines, but no changes in the number or boundaries or districts shall work a removal of any Judge from office during the term for which he has been elected or appointed.

SEC. 15. Writs of error and appeals shall be allowed from the decisions of the said District Courts to the Supreme Courts under such regulations as may be prescribed by law.

SEC. 16. No person shall be eligible to the office of Judge of the District Court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the Supreme Court of the Territory or State of Montana, nor unless he shall have resided in this State or Territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

SEC. 17. The District Court in each county which is a Judicial District by itself shall be always open for the transaction of business, except on legal holidays and non-judicial days. In each district where two or more counties are united, until otherwise provided by law, the Judges of such district shall fix the term of court, provided that there shall be at least four terms a year held in each county.

SEC. 18. There shall be a Clerk of the District Court in each county, who shall be elected by the electors of his county. The Clerk shall be elected at the same time and for the same term as the District Judge. The duties and compensation of the said Clerk shall be as provided by law.

#### COUNTY ATTORNEYS

SEC. 19. There shall be elected at the general election in each county of the State one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be two years, except that the county attorneys first elected shall hold their offices until the general election in the year one thousand eight hundred and ninety two, (1892) and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the State, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law.

#### JUSTICES OF THE PEACE

SEC. 20. There shall be elected in each organized township of each county by the electors of such township at least two justices of the peace, who shall hold their offices except as otherwise provided in this constitution, for the terms of two years. Justices courts shall have such original jurisdiction within their respective counties as may be prescribed by law, except as in this constitution otherwise provided; *Provided*, That they shall not have jurisdiction in any case where the debt, damage, claim, or value of the property involved exceeds the sum of three hundred dollars.

SEC. 21. Justices courts shall not have jurisdiction in any case involving the title or right of possession of real property, nor in cases of divorce, nor for annulment of marriage, nor of cases in equity; nor shall they have power to issue writs of habeas corpus, mandamus, certiorari, quo warranto injunction, or prohibition, nor the power of naturalization; nor shall they have jurisdiction in cases of felony, except as examining courts; nor shall criminal cases in said courts be prosecuted by indictment; but said courts shall have such jurisdiction in criminal matters, not of the grade of felony, as may be provided by law; and shall also have concurrent jurisdiction with the district courts, in cases of forcible entry and unlawful detainer.

SEC. 22. Justices courts shall always be open for the transaction of business, except on legal holidays and non-judicial days.

SEC. 23. Appeals shall be allowed from justices courts, in all cases, to the district courts, in such manner and under such regulations as may be prescribed by law.

## POLICE AND MUNICIPAL COURTS

SEC. 24. The Legislative Assembly shall have power to provide for creating such police and municipal courts and magistrates for cities and towns as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns, respectively; such police magistrates may also be constituted ex officio justices of the peace for their respective counties.

## MISCELLANEOUS PROVISIONS

SEC. 25. The supreme and district courts shall be courts of record.

SEC. 26. All laws relating to courts shall be general and of uniform operation throughout the State; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

SEC. 27. The style of all process shall be "The State of Montana" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 28. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the State, a salary, which shall not be increased or diminished during the terms for which they shall have been respectively elected. Until otherwise provided by law, the salary of the justices of the supreme court shall be four thousand dollars per annum each, and the salary of the judges of the district courts shall be three thousand five hundred dollars per annum each.

SEC. 30. No justice of the supreme court nor judge of the district court shall accept or receive any compensation, fee, allowance, mileage, perquisite or emolument for or on account of his office in any form whatever, except the salary provided by law.

SEC. 31. No justice or clerk of the supreme court, nor judge or clerk of any district court shall act or practice as an attorney, or counsellor at law in any court of this State during his continuance in office.

SEC. 32. The legislative assembly may provide for the publication of decisions and opinions of the supreme court.

SEC. 33. All officers provided for in this article, excepting justices of the supreme court, who shall reside within the State, shall respectively reside during their term of office in the district, county, township, precinct, city or town for which they may be elected or appointed.

SEC. 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the State, and vacancies in the offices of county attorneys, clerk of the district court, and justices of the peace shall be filled by appointment by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until the next annual election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.

SEC. 35. No justice of the supreme court or district judge shall hold any other public office while he remains in the office to which he has been elected or appointed.

SEC. 36. A civil action in the district court may be tried by a judge pro tempore, who must be a member of the bar of the State, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and in such case any order, judgement or decree, made or rendered therein by such judge pro tempore, shall have the same force and effect as if made or rendered by the court with the regular judge presiding.

SEC. 37. Any judicial officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office.

## ARTICLE IX

### RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE

SECTION 1. All elections of the people shall be by ballot.

SEC. 2. Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people and upon all questions which may be submitted to the vote of the people: First, he shall be a citizen of the United States; second, he shall have resided in this State one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law; *Provided*, first, that no person convicted of felony shall have the right to vote unless he has been pardoned; *Provided*, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; *Provided*, that after the expiration of five years from the time of the adoption of this constitution no person except citizens of the United States shall have the right to vote.

SEC. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the State, or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, nor while a student at any institution of learning, nor while kept at any alms-house or other asylum at the public expense, nor while confined in any public prison.

SEC. 4. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

SEC. 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

SEC. 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State at least one year next before his election or appointment.

SEC. 8. No idiot or insane person shall be entitled to vote at any election in this State.

SEC. 9. The Legislative Assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 10. Women shall be eligible to hold the office of county superintendent of schools or any school district office and shall have the right to vote at any school district election.

SEC. 11. Any person qualified to vote at general elections and for state officers in this state shall be eligible to any office therein except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the Legislative Assembly for city offices and offices hereafter created.

SEC. 12. Upon all questions submitted to the vote of the tax-payers of the State, or any political division thereof, women who are tax-payers and possessed of the qualifications for the right of suffrage required of men by this constitution shall equally, with men, have the right to vote.

SEC. 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes, shall be declared elected.

## ARTICLE X

### STATE INSTITUTIONS AND PUBLIC BUILDINGS

SECTION 1. Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, soldiers' home, and such other institutions as the public good may require, shall be established and supported by the State in such a manner as may be prescribed by law.

SEC. 2. At the general election in the year one thousand eight hundred and ninety-two, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the State and the majority of all the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be, and is hereby submitted in like manner to the qualified electors at the next general election thereafter; *Provided*, that until the seat of government shall have been permanently located the temporary seat of government shall be and remain in the city of Helena.

SEC. 3. When the seat of government shall have been located as herein provided the location thereof shall not thereafter be changed, except by a vote of two-third of all the qualified electors of the State voting on that question at a general election at which the question of the location of the seat of government shall have been submitted by the Legislative Assembly.

SEC. 4. The Legislative Assembly shall make no appropriations or expenditures for capital buildings or grounds until the seat of government shall have been permanently located, as herein provided.

SEC. 5. The several counties of the State shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.



## ARTICLE XI

## EDUCATION

SECTION 1. It shall be the duty of the Legislative Assembly of Montana to establish and maintain a general, uniform and thorough system of public, free common schools.

SEC. 2. The public school fund of the State shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the State by the general government, known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the State from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of estates that may escheat to the State; all unclaimed shares and dividends of any corporation incorporated under the laws of the State, and all other grants, gifts, devises or bequests made to the State for general educational purposes.

SEC. 3. Such public school fund shall forever remain inviolate, guaranteed by the State against loss or diversion, to be invested, so far as possible, in public securities within the State, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

SEC. 4. The Governor, Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute the State Board of Land Commissioners, which shall have the direction, control, leasing and sale of the school lands of the State, and the lands granted or which may hereafter be granted for the support and benefit of the various State educational institutions, under such regulations and restrictions as may be prescribed by law.

SEC. 5. The interest on all invested school funds of the State, and all rents accruing from the leasing of any school lands, shall be apportioned to the several school districts of the State in proportion to the number of children and youths between the ages of six and twenty-one years, residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least three months during the year for which distributions shall be made.

SEC. 6. It shall be the duty of the Legislative Assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free, common school in each organized district in the State, for at least three months in each year.

SEC. 7. The public free schools of the State shall be open to all children and youth between the ages of six and twenty-one years.

SEC. 8. Neither the Legislative Assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university,

or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

SEC. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the State; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

SEC. 10. The Legislative Assembly shall provide that all elections for school district officers shall be separate from those elections at which State or county officers are voted for.

SEC. 11. The general control and supervision of the State University and the various other State educational institutions shall be vested in a State Board of Education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the Governor, State Superintendent of Public Instruction, and Attorney General, being members *ex officio*, the other eight members thereof shall be appointed by the Governor, subject to the confirmation of the Senate, under the regulations and restrictions to be provided by law.

SEC. 12. The funds of the State University and of all other State institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the State against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

## ARTICLE XII

### REVENUE AND TAXATION

SECTION 1. The necessary revenue for the support and maintenance of the State shall be provided by the Legislative Assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article. The Legislative Assembly may also impose a license tax, both upon persons and upon corporations doing business in the State.

SEC. 2. The property of the United States, the State, counties, cities, towns, school districts, municipal corporations, and public libraries shall be exempt from taxation; and such other property as may be used exclusively for agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, and institutions of purely public charity may be exempt from taxation.

SEC. 3. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for

other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.

SEC. 4. The Legislative Assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law invest in the corporate authorities thereof powers to assess and collect taxes for such purposes.

SEC. 5. Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.

SEC. 6. No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of State taxes.

SEC. 7. The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this State, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.

SEC. 8. Private property shall not be taken or sold for the corporate debts of public corporations, but the Legislative Assembly may provide by law for the funding thereof, and shall provide by law for the payment thereof, including all funded debts and obligations, by assessment and taxation of all private property not exempt from taxation within the limits of the territory over which such corporations respectively have authority.

SEC. 9. The rate of taxation of real and personal property for State purposes in any one year shall never exceed three (3) mills on each dollar of valuation; and whenever the taxable property in the State shall amount to one hundred million dollars (\$100,000,000), the rate shall not exceed two and one-half ( $2\frac{1}{2}$ ) mills on each dollar of valuation; and whenever the taxable property in the state shall amount to three hundred million dollars (\$300,000,000) the rate shall never thereafter exceed one and one-half ( $1\frac{1}{2}$ ) mills on each dollar of valuation; unless a proposition to increase such rate specifying the rate proposed and the time during which the same shall be levied, shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it at such election.

SEC. 10. All taxes levied for State purposes shall be paid into the State treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

SEC. 11. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

SEC. 12. No appropriation shall be made or any expenditure authorized by the Legislative Assembly whereby the expenditures of the State during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the Legislative Assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the State, or assist in defending the United States in time of war. No appropriations of public moneys shall be made for a longer term than two years.

SEC. 13. The State treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the Governor in writing under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The Governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the Legislative Assembly may require. The Legislative Assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but, notwithstanding any such regulations, the treasurer and his sureties shall in all cases, be held responsible therefor.

SEC. 14. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 15. The Governor, Secretary of State, State Treasurer, State Auditor and Attorney General shall constitute a State Board of Equalization and the Board of County Commissioners of each county shall constitute a County Board of Equalization. The duty of the State Board of Equalization shall be to adjust and equalize the valuation of the taxable property among the several counties of the State. The duty of the County Boards of Equalization shall be to adjust and equalize the valuation of taxable property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

SEC. 16. All property shall be assessed in the manner prescribed by law except as is otherwise provided in this constitution. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization and the same shall be apportioned to the counties, cities, towns, townships and school districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and school districts.

SEC. 17. The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of

such company or corporation represented by such stocks is within the State and has been taxed.

SEC. 18. The Legislative Assembly shall pass all laws, necessary to carry out the provisions of this article.

### ARTICLE XIII

#### PUBLIC INDEBTEDNESS

SECTION 1. Neither the State, nor any county, city, town, municipality, nor other subdivision of the State shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a share holder in, any company or corporation, or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the State by operation or provision of law.

SEC. 2. The Legislative Assembly shall not in any manner create any debt except by law which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars (\$100,000) except in case of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.

SEC. 3. All moneys borrowed by, or on behalf of the State or any county, city, town, municipality or other subdivision of the State, shall be used only for the purpose specified in the law authorizing the loan.

SEC. 4. The State shall not assume the debt, or any part thereof, of any county, city, town or municipal corporation.

SEC. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the (value of the) taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law.

SEC. 6. No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city, town, township



or school district shall be void; *Provided, however,* that the Legislative Assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the tax-payers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

#### ARTICLE XIV

##### MILITARY AFFAIRS

SECTION 1. The militia of the State of Montana shall consist of all able-bodied male citizens of the State between the ages of eighteen (18) and forty-five (45) years inclusive, except such persons as may be exempted by the laws of the State or of the United States.

SEC. 2. The Legislative Assembly shall provide by law for the organization, equipment, and discipline of the militia and shall make rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. The Legislative Assembly shall provide by law for maintaining the militia by appropriations from the treasury of the state.

SEC. 4. The Legislative Assembly shall provide by law for the safe keeping of the public arms, military records, relics and banners of the State.

SEC. 5. When the governor shall, with the consent of the Legislative Assembly, be out of the state in time of war at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the State.

#### ARTICLE XV

##### CORPORATIONS OTHER THAN MUNICIPAL

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which the corporations or grantees shall not have organized or commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations hereafter as are or may be under the control of the State, but the Legislative Assembly shall provide by general law for the organization of corporations to be created; *Provided,* That any such laws shall be subject to future repeal or alterations by the Legislative Assembly.

SEC. 3. The Legislative Assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this constitution, or which may be hereafter incorporated, whenever in its opinion it may be injurious to the citizens of the State.

SEC. 4. The Legislative Assembly shall provide by law that in all elections for directors or trustees of incorporated companies, every stockholder shall have the right to vote in person or by proxy the

number of shares of stock owned by him for as many persons as there are directors or trustees to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit, and such directors or trustees shall not be elected in any other manner.

SEC. 5. All railroads shall be public highways, and all railroad, transportation and express companies shall be common carriers and subject to legislative control, and the Legislative Assembly shall have the power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the State. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this State and to connect at the State line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

SEC. 6. No railroad corporation, express, or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation, express or other transportation company, owning or having under its control a parallel or competing line; neither shall it in any manner unite its business or earnings with the business or earnings of any other railroad corporation; nor shall any officer of such railroad, express, or other transportation company act as an officer of any other railroad, express, or other transportation company owning or having control of a parallel or competing line.

SEC. 7. All individuals, associations, and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, or transportation, or express company, between persons or places within this state; but excursion or commutation tickets may be issued and sold at special rates, provided such rates are the same to all persons. No railroad, or transportation, or express company, shall be allowed to charge, collect, or receive, under penalties which the Legislative Assembly shall prescribe, any greater charge or toll for the transportation of freight or passengers to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this State. No railroad, express, or transportation company, nor any lessee, manager, or other employe thereof, shall give any preference to any individual, association or corporation, in furnishing cars or motive power, or for the transportation of money or other express matter.

SEC. 8. No railroad, express, or other transportation company, in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

**SEC. 9.** The right of eminent domain shall never be abridged, nor so construed as to prevent the Legislative Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals; and the police powers of the State shall never be abridged, or so construed, as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the State.

**SEC. 10.** No corporation shall issue stock or bonds, except for labor done, services performed, or money and property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty days notice given in pursuance of law.

**SEC. 11.** No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served, and no company or corporation formed under the laws of any other country, state or territory, shall have, or be allowed to exercise, or enjoy within this State any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of the State.

**SEC. 12.** No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the street or highway proposed to be occupied by such street or other railroad.

**SEC. 13.** The Legislative Assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State, a new liability in respect to transactions or considerations already passed.

**SEC. 14.** Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct or maintain lines of telegraph or telephone within this State, and connect the same with other lines; and the Legislative Assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph or telephone company owning or having the control of a competing line, or acquired by purchase or otherwise, any other competing line of telegraph or telephone.

**SEC. 15.** If any railroad, telegraph, telephone, express, or other corporation or company organized under any of the laws of this State, shall consolidate, by sale or otherwise, with any railroad, telegraph, telephone, express, or other corporation, organized under any of the laws of any other state or territory or of the United States, the same shall not thereby become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state, in all matters that may arise as if said consolidation had not taken place.

**SEC. 16.** It shall be unlawful for any person, company or corporation to require of its servants or employees, as a condition of their

employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof; and such contracts shall be absolutely null and void.

SEC. 17. The Legislative Assembly shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

SEC. 18. The term "corporation," as used in this article shall be held and construed to include all associations and joint stock companies, having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

SEC. 19. Dues from private corporations shall be secured by such means as may be prescribed by law.

SEC. 20. No incorporation, stock company, person or association of persons in the State of Montana, shall directly or indirectly combine or form what is known as a trust, or make any contract with any person or persons, corporations, or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The Legislative Assembly shall pass laws for the enforcement thereof by adequate penalties to the extent, if necessary for that purpose, of the forfeiture of their property and franchises, and in case of foreign corporations prohibiting them from carrying on business in the State.

## ARTICLE XVI

### MUNICIPAL CORPORATIONS AND OFFICERS

SECTION 1. The several counties of the territory of Montana, as they shall exist at the time of the admission of the State into the Union are hereby declared to be the counties of the State until otherwise established or changed by law.

SEC. 2. The Legislative Assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

SEC. 3. In all cases of the establishment of a new county it shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which it is formed, less the ratable proportion of the value of the county buildings and property of the county or counties from which it is formed; *Provided*, That nothing

in this section shall prevent the re-adjustment of county lines between existing counties.

SEC. 4. In each county there shall be elected three county commissioners whose term of office shall be four years. A vacancy in the board of county commissioners shall be filled by appointment by the district judge of the district in which the vacancy occurs.

SEC. 5. There shall be elected in each county the following officers: One county clerk, who shall be clerk of the board of county commissioners and ex officio recorder; one sheriff; one treasurer, who shall be collector of taxes; *Provided*, That no person shall hold the office of county treasurer for more than two consecutive terms; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of two years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election.

SEC. 6. The Legislative Assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

## ARTICLE XVII

### PUBLIC LANDS

SECTION 1. All lands of the State that have been, or that may hereafter be granted to the State by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the State, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the State; nor shall any lands which the State holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land Commissioners, as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three miles of such limits; *Provided*, That any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

SEC. 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The



lands of the second class may be sold, or the timber thereon may be sold, under such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The land of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year one thousand nine hundred and ten (1910).

SEC. 3. All other public lands may be disposed of in such manner as may be provided by law.

## ARTICLE XVIII

### LABOR

SECTION 1. The Legislative Assembly may provide for a bureau of agriculture, labor and industry, to be located at the capital and be under the control of a commissioner appointed by the Governor subject to the confirmation of the senate. The commissioner shall hold his office for four years, and until his successor is appointed and qualified, his compensation shall be as provided by law.

SEC. 2. It shall be unlawful for the warden or other officer of any state penitentiary or reformatory institution in the State of Montana, or for any State officer to let by contract to any person or persons or corporation the labor of any convict confined within said institutions.

## ARTICLE XIX

### MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS

SECTION 1. Members of the Legislative Assembly and all officers, executive, ministerial or judicial, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the State of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this State, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office other than the compensation allowed by law. So help me God." And no other oath, declaration or test shall be required as a qualification for any office or trust.

SEC. 2. The Legislative Assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State.

SEC. 3. The Legislative Assembly shall enact suitable laws to prevent the destruction by fire from any cause of the grasses and forests upon lands of the State or upon lands of the public domain the control of which may be conferred by Congress upon this State, and to otherwise protect the same.

SEC. 4. The Legislative Assembly shall enact liberal homestead and exemption laws.

SEC. 5. No perpetuities shall be allowed, except for charitable purposes.

SEC. 6. All county officers shall keep their offices at the county seats of their respective counties.

SEC. 7. In the disposition of the public lands granted by the United States to this State, preference shall always be given to actual settlers thereon, and the Legislative Assembly shall provide by law for carrying this section into effect.

SEC. 8. The Legislative Assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the State the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the Legislative Assembly shall at its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The Legislative Assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the State of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the Legislative Assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two or more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

SEC. 9. Amendments to this constitution may be proposed in either house of the Legislative Assembly; and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and naves of each house thereon, shall be entered in full on their respective journals; and the Secretary of State shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members to the Legislative Assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the State for their approval or rejection, and such as approved by a majority of those voting thereon shall become part of the Constitution. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted on separately; *Provided*, however, that not more than three amendments to this constitution shall be submitted at the same election.

## ARTICLE XX

## SCHEDULE

That no inconvenience may arise by reason of changing from a Territorial to a State form of government, it is declared as follows:

SECTION 1. All laws enacted by the Legislative Assembly of the Territory of Montana and in force at the time the State shall be admitted into the Union and not inconsistent with this constitution or the constitution or laws of the United States of America, shall be and remain in full force as the laws of the State until altered or repealed, or until they expire by their own limitation; *Provided*, That whenever in said laws the words, "Territory," "Montana Territory" or "Territory of Montana" occur, the words "State" or "State of Montana" shall be appropriately substituted and read therefor; *And, provided further*, that the duties which now by law devolve upon probate judges as jury commissioners and in relation to issuing marriage licenses and filing and recording marriage certificates, and the duties as ex-officio clerks of their own courts, shall, until otherwise provided by law, devolve upon and be performed by the clerks of the district courts in their respective counties; *And, provided further*, That the duties of probate judges now imposed by law relative to town sites and to the approval of bonds of other county officers shall, until otherwise provided by law, be performed by the district judges in the several counties in their respective districts.

SEC. 2. All lawful orders, judgments and decrees in civil causes, all contracts and claims and all lawful convictions, judgments and sentences in criminal actions, made and entered, or pronounced by the courts within the Territory of Montana, and in force at the time the State shall be admitted into the Union, shall continue and be and remain in full force in the State unaffected in any respect by the change from a Territorial to a State form of Government, and may be enforced and executed under the laws of the State.

SEC. 3. No crime or criminal offence committed against the laws of the Territory of Montana shall abate, or be in any wise affected, by reason of the change from a Territorial to a State form of Government; but the same shall be deemed and taken to be an offence against the laws of the State, and the appropriate courts of the State shall have jurisdiction over and to hear and determine the same; *Provided*, That this section shall not in any wise be construed to change the law of the statute of limitations or the due effect or application of the same.

SEC. 4. Except as herein otherwise provided, the word "district" shall be substituted and read in lieu of the word "probate" in the terms "probate court" or "probate judge" whenever the same occur in the laws of the Territory of Montana, and all said laws which by their terms apply to probate courts or probate judges shall, except as in this constitution otherwise provided, upon a change from Territorial to State government, be deemed and taken to apply to district courts and district judges; *Provided*, That all laws allowing fees to probate judges are hereby repealed.

SEC. 5. Clerks of district courts, until otherwise provided by law, shall each perform the duties and be entitled to the same fees as now provided by law for clerks of the district courts of the territory, and

until otherwise provided by law shall also perform the services and be entitled to fees therefor that are now provided for clerks of probate courts.

SEC. 6. Upon a change from Territorial to State government the seals in use by the supreme court and the Territorial district courts in and for the several counties respectively, shall pass to and become, until otherwise provided by law, the seals respectively of the supreme court and of the district courts of the State in such counties.

SEC. 7. Prosecutions for criminal offences against the laws of the Territory of Montana, pending at the time the State shall be admitted into the Union shall not abate; but the same shall continue and be prosecuted in the name of the State of Montana, and the title of every such action shall be changed to conform to this provision.

SEC. 8. Parties who, at the time of the admission of the State into the Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Montana, shall continue to be so confined or held until discharged therefrom by the proper courts of the State.

SEC. 9. All writs, processes, prosecutions, actions, causes of action, defenses, claims and rights of individuals, associations, and bodies corporate existing at the time the State shall be admitted into the Union, shall continue and be respectively executed, proceeded with, determined, enforced and protected under the laws of the State.

SEC. 10. All undertakings, bonds, obligations and recognizances in force at the time the State shall be admitted into the Union, which were executed to the Territory of Montana, or any officer thereof in his official capacity, or to any official board for the benefit of the Territory of Montana, are hereby respectively assigned and transferred to the State of Montana, to the State officer successor to said Territorial officer, or to the official board successor to the aforesaid official board, for the use of the state, as the case may be, and shall be as valid and binding as if executed under State law to the State, or State officer in his official capacity, or official board, for the benefit of the State; and all fines, taxes, penalties and forfeitures due or owing to the Territory of Montana or to any county, school district, or municipality therein, at the time the State shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the State, county, school district or municipality, as the case may be, and payment thereof may be enforced under the laws of the State.

SEC. 11. All property, real and personal, and all moneys, credits, claims, demands and choses in action of every kind, belonging to the Territory of Montana at the time the State shall be admitted into the Union, are hereby assigned and transferred to, and shall be vested in, and become the property of the State of Montana.

SEC. 12. All obligations of the Territory of Montana, existing, in force and unpaid at the time of the admission of the State into the Union are hereby assumed by the State which shall and will well and truly pay the same.

SEC. 13. All matters, cases and proceedings pending in any probate court in the Territory of Montana, at the time the State shall be admitted into the Union, and all official records, files, moneys, and other property of, or pertaining to such court, are hereby transferred

to the district court in and for the same county, and such district court shall have full power and jurisdiction to hear, determine and dispose of all such matters, cases and proceedings.

SEC. 14. All actions, cases and proceedings, and matters which shall be pending in the supreme and district courts of Montana Territory at the time of the admission of the State into the Union whereof the United States circuit or district court might have had jurisdiction, had such court existed at the commencement of such actions, cases, proceedings and matters, respectively, shall be transferred to said United States Circuit and District Courts respectively; and all the files, records, indictments and proceedings relating to such actions, cases, proceedings and matters shall be transferred to said United States Courts; *Provided*, That no civil action, cause or proceeding to which the United States is not a party shall be transferred to either of said United States Courts except upon written request of one of the parties thereto and in the absence of such request, such case shall be proceeded with in the proper State courts.

SEC. 15. All actions, cases, proceedings and matters pending in the Supreme and District Courts of the Territory of Montana at the time the State shall be admitted into the Union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred, as may be proper to the Supreme and District Courts of the State, respectively, and all such actions, cases, and matters shall be proceeded with in the proper State courts.

SEC. 16. Upon a change from a Territorial to a State government, and until otherwise provided by law, the Great Seal of the Territory shall be deemed and taken to be the Great Seal of the State of Montana.

SEC. 17. All territorial, county and township officers now occupying their respective positions under the laws of the Territory of Montana, or of the United States of America, shall continue and remain in their respective official positions and perform the duties thereof as now provided by law after the State is admitted into the Union, and shall be considered State officers until their successors in office shall be duly elected and qualified, as provided by ordinance, notwithstanding any inconsistent provisions in this constitution, and shall be entitled to the same compensation for their services as is now established by law; *Provided*, That the compensation for Justices of the Supreme Court, Governor and Secretary of the Territory shall be paid by the State of Montana.

Done in open convention at the city of Helena in the Territory of Montana, this seventeenth day of August, in the year of our Lord, one thousand eight hundred and eighty nine.

WILLIAM A. CLARK, *President*.

UNITED STATES OF AMERICA,  
*Territory of Montana, ss:*

I, Louis A. Walker, Secretary of the Territory of Montana, do hereby certify that I have compared the annexed and foregoing Constitution of the State of Montana, as adopted by the Montana Constitutional Convention of 1889, with the original thereof, filed in my office on the 17th day of August, A. D. 1889, and that the same



is a correct transcript therefrom, and of the whole of said original Constitution.

Witness my hand and the seal of the Territory of Montana, this 25th day of August, A. D. One Thousand Eight Hundred and Eighty-Nine.

[SEAL.]

LOUIS A. WALKER,  
*Secretary of the Territory of Montana.*

### ORDINANCES.

#### ORDINANCE NO. I.—FEDERAL RELATIONS

*Be it Ordained: First.* That perfect toleration of religious sentiment shall be secured and that no inhabitant of the State of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

*Second.* That the people inhabiting the said proposed State of Montana, do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States, that the lands belonging to citizens of the United States, residing without the said State of Montana, shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said State of Montana on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said State of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by said State of Montana so long and to such extent as such act of congress may prescribe.

*Third.* That the debts and liabilities of said Territory of Montana shall be assumed and paid by the said State of Montana.

*Fourth.* That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said State of Montana and free from sectarian control.

*Fifth.* That on behalf of the people of Montana, we in convention assembled, do adopt the Constitution of the United States.

*Sixth.* That the Ordinances in this Article shall be irrevocable without the consent of the United States and the people of said State of Montana.

*Seventh.* The State hereby accepts the several grants of land from the United States to the State of Montana, mentioned in an act of congress, entitled "An act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington, to form constitutions and State governments, and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States." Approved February 22d, 1889, upon the terms and conditions therein provided.

#### ORDINANCE II.—ELECTIONS

*Be it Ordained by the Convention assembled to form a Constitution for the State of Montana:*

*First.* That an election shall be held throughout the Territory of Montana on the first Tuesday of October, 1889, for the ratification or rejection of the constitution framed and adopted by this convention.

*Second.* At said election the constitution framed and adopted by this convention shall be submitted to the people of the territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this Territory, shall be qualified to vote for the ratification or rejection thereof.

*Third.* Said elections shall be held at the several polling places and precincts throughout the Territory appointed for the holding of elections under the laws of the Territory, and shall be conducted in the manner prescribed by the laws of the territory regulating elections. The boards of county commissioners of the several counties of the territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the territory.

*Fourth.* Each elector voting at said election shall have written or printed upon the ticket he may deposit in the ballot box, the words "For the Constitution" or "Against the Constitution."

*Fifth.* The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner, if the returns from all of the precincts shall have been received and in the manner prescribed by the laws of the Territory of Montana for canvassing the votes at general elections in said territory, and the returns of said election shall be made to the Secretary of the Territory, who with the Governor, and the Chief Justice of the Territory, or any two of them shall constitute a board of canvassers who shall meet at the office of the Secretary of the Territory on, or before, the thirtieth day after the election, and canvass the votes so cast and declare the result.

*Sixth.* That on the First Tuesday in October, 1889, there shall be elected by the qualified electors of Montana, a Governor, a Lieutenant-Governor, a Secretary of State, an Attorney General, a State Treasurer, a State Auditor, a State Superintendent of Public Instruc-

tion, one Chief Justice, and two Associate Justices of the Supreme Court, a Judge for each of the Judicial districts established by this Constitution, a Clerk of the Supreme Court, and a Clerk of the District Court in and for each county of the State, and the members of the Legislative Assembly provided for in this constitution. The terms of officers so elected shall begin when the State shall be admitted into the Union and shall end on the first Monday in January, 1893, except as otherwise provided.

*Seventh.* There shall be elected at the same time one Representative in the fifty-first congress of the United States.

*Eighth.* The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the Secretary of the Territory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to Clerk of the District Court.

*Ninth.* There shall also be elected at the same time the following county and township officers: Three County Commissioners, one Clerk of the Board of Commissioners, and *ex-officio* Recorder, one Sheriff, one County Treasurer, one County Superintendent of Common Schools, one County Surveyor, one County Assessor, one Coroner, one Public Administrator, one County Attorney, two Justices of the Peace, and two Constables for each township. The terms of office for the above named officers shall begin upon the admission of the State and end upon the first Monday of January, A. D. 1893, except, as to County Treasurer whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also, as to county commissioners whose terms are otherwise provided for in this constitution.

*Tenth.* The voters for the above county and township officers and for Clerk of the District Court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

*Eleventh.* Notice of the election for the adoption or rejection of this Constitution and for State, District, County and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

*Twelfth.* That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

## AMENDMENTS

### ARTICLE V

SECTION 1. The legislative authority of the State shall be vested in a Legislative Assembly, consisting of a Senate and House of Representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and as except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this Constitution, independent of the Legislative Assembly; and also reserve

power at their own option, to approve or reject at the polls, any act of the Legislative Assembly, except as to laws necessary for the immediate preservation of the public peace, health or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this Constitution. The first power reserved by the people is the Initiative and eight per cent of the legal voters of the State shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the State must each furnish as signers of said petition eight per cent of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State, not less than four months before the election at which they are to be voted upon.

The second power is the Referendum, and it may be ordered either by petition signed by five per cent of the legal voters of the State; provided, that two-fifths of the whole number of the counties of the State must each furnish as signers of said petition five per cent of the legal voters in such county, or, by the Legislative Assembly as other Bills are enacted.

Referendum petitions shall be filed with the Secretary of State, not later than six months after the final adjournment of the Session of the Legislative Assembly which passed the Bill on which the Referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people by the Legislative Assembly or by Initiative Referendum petitions.

All elections on measures referred to the people of the State shall be had at the biennial regular general election, except when the Legislative Assembly, by a majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent of the legal voters of a majority of the whole number of the counties of the State, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for Governor at the regular election last preceding the filing of any petition for the Initiative or Referendum, shall be the basis on which the number of the legal petitions and orders for the Initiative and for the Referendum shall be filed with the Secretary of State; and in submitting the same to the people, he, and all other officers, shall be guided by the General laws and the Act submitting this amendment, until Legislation shall be especially provided therefor. The enacting clause of every law originated by the Initiative shall be as follows:

“Be it enacted by the People of Montana:”

This Section shall not be construed to deprive any member of the Legislative Assembly of the right to introduce any measure.

SEC. 2. That separate Official Ballots be used at the general election, to be held in November, 1906, and shall have printed thereon the words: “For the Amendment to the Constitution providing for Direct Legislation and Reference of Laws,” and the words, “Against the Amendment to the Constitution providing for Direct Legislation and Reference of Laws.”

It shall be the duty of the Legislative Assembly to enact Legislation suitable for carrying this amendment into effect.

SEC. 3. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 4. This Act shall take effect and be in full force from and after its passage and approval by the Governor.

WYLLYS A. HEDGES,  
*Speaker of the House.*

EDWIN NORRIS,  
*President of the Senate.*

Approved March 2nd, 1905.

J. K. TOOLE, *Governor.*

Filed March 2nd, 1905, at 8.30 P. M.

A. N. YODER, *Secretary of State.*



# NEBRASKA

For organic acts issued before 1864 relating to the land now in Nebraska see in this work :—

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).

District of Louisiana, 1804 (Louisiana, p. 1364).

Territory of Louisiana, 1805 (Louisiana, p. 1371).

Territory of Missouri, 1812 (Missouri, p. 2139).

Enabling Act for Missouri, 1820 (Missouri, p. 2145).

Act for Government of Indian Country, 1834 (Indian Territory, p. 1097).

Treaty of Guadalupe Hidalgo, 1848 (California, p. 377).

Territory of Nebraska, 1854 (Kansas, p. 1161).<sup>a</sup>

## ENABLING ACT FOR NEBRASKA—1864<sup>b</sup>

[THIRTY-EIGHTH CONGRESS, FIRST SESSION]

An Act to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the inhabitants of that portion of the Territory of Nebraska included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves a constitution and State government, with the name aforesaid, which State, when so formed, shall be admitted into the Union as hereinafter provided.

SEC. 2. *And be it further enacted,* That the said State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude to a point formed by its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to a point formed by its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude to a point formed by its intersection with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Reya Paha River; thence down the middle of the channel of said river, with its meanderings, to its junc-

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<sup>a</sup> Under this act the Territory of Nebraska included the area of the present state of Nebraska, as well as portions of Colorado, Wyoming, Montana, North Dakota, and South Dakota. Its area was successively reduced by the erection of the Territories of Colorado, Idaho and Montana.

<sup>b</sup> For other statutes of an organic nature relating to Nebraska see the act to prohibit slavery in, June 19, 1862; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation in, March 2, 1867.

tion with the Niobrara River; thence down the middle of the channel of said Niobrara River, and following the meanderings thereof, to its junction with the Missouri River; thence down the middle of the channel of said Missouri River, and following the meanderings thereof, to the place of beginning.

SEC. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the general assembly of said Territory shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe, and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous, and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid, and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population, as near as may be, and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief justice thereof, or any two of them. And the governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives, and the number of members to said convention shall be the same as now constitute both branches of the legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted*, That the members of the convention thus elected shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States, whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government: *Provided*, That the Constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said constitution shall provide, by an article forever irrevocable, without the consent of the Congress of the United States—

First. That slavery or involuntary servitude shall be forever prohibited in said State.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States

residing without the said State shall never be taxed higher than the land belonging to residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to or which may hereafter be purchased by the United States.

SEC. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Nebraska, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the qualified voters, as hereinbefore provided, shall vote directly for or against the proposed constitution, and the returns of said elections shall be made to the acting governor of the Territory, who, together with the United States district attorney and chief justice of the said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken said State of Nebraska shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

SEC. 7. *And be it further enacted*, That sections numbered sixteen and thirty-six in every township, and when such sections have been sold or otherwise disposed of by any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter-section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

SEC. 8. *And be it further enacted*, That provided the State of Nebraska shall be admitted into the Union in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the legislature thereof, on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. *And be it further enacted*, That fifty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. *And be it further enacted*, That seventy-two other sections of land shall be set apart and reserved for the use and support of a State university, to be selected in manner as aforesaid, and to be appropriated and applied as the legislature of said State may prescribe for the purpose named, and for no other purpose.

SEC. 11. *And be it further enacted*, That all salt-springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the governor thereof within one year after the admission of the State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the legislature shall direct: *Provided*, That no salt-spring or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall, by this act, be granted to said State.

SEC. 12. *And be it further enacted*, That five per centum of the proceeds of the sales of all public lands lying within said State, which have been or shall be sold by the United States prior or subsequent to the admission of said State into the Union, after deducting all expenses incident to the same, shall be paid to the said State for the support of common schools.

SEC. 13. *And be it further enacted*, That from and after the admission of the said State of Nebraska into the Union in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said State as elsewhere within the United States, and said State shall constitute one judicial district and be called the district of Nebraska.

SEC. 14. *And be it further enacted*, That any unexpended balance of the appropriations for said territorial legislative expenses of Nebraska remaining for the fiscal years eighteen hundred and sixty-three and eighteen hundred and sixty-four, or so much thereof as may be necessary, shall be applied to and used for defraying the expenses of said convention and for the payment of the members thereof, under the same rules, regulations, and rates as are now provided by law for the payment of the territorial legislature.

Approved, April 19, 1864.

### ADMISSION OF NEBRASKA—1867 <sup>a</sup>

[THIRTY-NINTH CONGRESS, SECOND SESSION]

#### An Act for the admission of the State of Nebraska into the Union

Whereas, on the twenty-first [nineteenth] day of March, [April,] anno Domini eighteen hundred and sixty-four, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so formed, into the Union, upon compliance with certain conditions therein specified;

<sup>a</sup> The legislature of Nebraska, having been convened February 20, 1867, to take action on the third section of this act, enacted "That the act of the Congress of the United States, entitled 'An act for the admission of the State of Nebraska into the Union,' passed February 9, 1867, be, and the same is hereby, ratified and accepted, and it is hereby declared that the provisions of the third section of said act of Congress shall be a part of the organic law of the State of Nebraska."

and whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby, declared to be one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted,* That the said State of Nebraska shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April nineteen, eighteen hundred and sixty-four.

SEC 3. *And be it further enacted,* That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right to any person, by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act; upon receipt whereof the President, by proclamation, shall forthwith announce the fact; whereupon said fundamental condition shall be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State legislature shall be convened by the territorial governor within thirty days after the passage of this act, to act upon the condition submitted herein.

[February 9, 1867.]

SCHUYLER COLFAX,  
*Speaker of the House of Representatives.*

LA FAYETTE S. FOSTER,  
*President of the Senate pro tempore.<sup>a</sup>*

## PROCLAMATION ANNOUNCING THE ADMISSION OF NEBRASKA— 1867

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA  
A PROCLAMATION

Whereas the Congress of the United States did, by an act approved on the nineteenth day of April, one thousand eight hundred and

<sup>a</sup> This act having been vetoed by the President, was passed over the veto by the Senate February 8, 1867, and by the House of Representatives February 9, 1867.



sixty-four, authorize the people of the Territory of Nebraska to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, upon certain conditions in said act specified; and whereas said people did adopt a constitution conforming to the provisions and conditions of said act, and ask admission into the Union; and whereas the Congress of the United States did, on the eighth and ninth days of February, one thousand eight hundred and sixty-seven, in mode prescribed by the Constitution, pass a further act for the admission of the State of Nebraska into the Union, in which last-named act it was provided that it should not take effect except upon the fundamental condition that within the State of Nebraska there should be no denial of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed, and upon the further fundamental condition that the legislature of said State, by a solemn public act, should declare the assent of said State to the said fundamental condition, and should transmit to the President of the United States an authenticated copy of said act of the legislature of said State, upon receipt whereof the President, by proclamation, should forthwith announce the fact, whereupon said fundamental condition should be held as a part of the organic law of the State, and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union should be considered as complete; and whereas within the time prescribed by said act of Congress of the eighth and ninth of February, one thousand eight hundred and sixty-seven, the legislature of the State of Nebraska did pass an act ratifying the said act of Congress of the eighth and ninth of February, one thousand eight hundred and sixty-seven, and declaring that the aforementioned provisions of the third section of said last-named act of Congress should be a part of the organic law of the State of Nebraska; and whereas a duly authenticated copy of said act of the legislature of the State of Nebraska has been received by me:

Now, therefore, I, ANDREW JOHNSON, President of the United States of America, do, in accordance with the provisions of the act of Congress last herein named, declare and proclaim the fact that the fundamental conditions imposed by Congress on the State of Nebraska to entitle that State to admission to the Union have been ratified and accepted, and that the admission of the said State into the Union is now complete.

In testimony whereof I have hereunto set my hand, and have caused the seal of the United States to be affixed.

Done at the city of Washington, this first day of March, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States of America the ninety-first.

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,  
*Secretary of State.*

## CONSTITUTION OF NEBRASKA—1866-'67 \* a

## PREAMBLE

We, the people of Nebraska, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity, and promote the general welfare, do establish this constitution.

## ARTICLE I

## DECLARATION OF RIGHTS

SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 3. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libellous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 4. The right of the people peaceably to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SEC. 5. The right of trial by jury shall remain inviolate, but the legislature may authorize trial by a jury of a less number than twelve men, in inferior courts.

SEC. 6. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required; nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 7. In all criminal prosecutions and in cases involving the life or liberty of an individual, the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the accusation against him; to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and to have the assistance of counsel.

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\* Verified by "The Constitution of the State of Nebraska, adopted February 9, 1866. Nebraska Republican Job Office. 1866."

<sup>a</sup> This constitution was framed by the territorial legislature, which completed it February 9, 1866. It was submitted to the people at an election held June 21, 1866, and ratified by a vote of 3,938 against 3,838. A condition subsequently imposed by Congress was accepted by the legislature in 1867, and made a part of the organic law.

SEC. 8. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia, when in actual service in time of war or public danger; and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require.

SEC. 9. All courts shall be open, and every person for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 10. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 11. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC. 12. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. The property of no person shall be taken for public use without just compensation therefor.

SEC. 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

SEC. 15. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud.

SEC. 16. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place or worship, or maintain any form of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship and to encourage schools and the means of instruction.

SEC. 17. The military shall be in strict subordination to the civil power.

SEC. 18. The writ of error shall be a writ of right in all capital cases, and shall operate as a *supersedeas* to stay the execution of the sentence of death until the further order of the supreme court in the premises.

SEC. 19. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

## ARTICLE II

### LEGISLATIVE

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be, "*Be it enacted by the legislature of the State of Nebraska.*"

SEC. 2. Every male person, of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the State, county, precinct, and ward for the time provided by law, shall be an elector:

First. White citizens of the United States.

Second. White persons of foreign birth who shall have declared their intention to become citizens conformable to the laws of the United States on the subject of naturalization.

SEC. 3. The legislature shall provide by law for an enumeration of the inhabitants of the State in the year one thousand eight hundred and seventy-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and house of representatives, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States Army and Navy.

SEC. 4. Senators and representatives shall be elected biennially, by the electors in the respective counties or districts, on the second Tuesday of October. Their term of office shall commence on the first day of January next thereafter, and continue two years, except the Senators and representatives to the first legislature under this constitution, whose election and term of office shall be as hereinafter provided.

SEC. 5. The senators and representatives shall be chosen by districts of convenient contiguous territory, as compact as may be, to be defined by law, except as to the first election which is hereinafter provided for.

SEC. 6. Every white male citizen who shall be a qualified elector in the district which he may be chosen to represent shall be eligible to a seat in the legislature.

SEC. 7. Each house shall be the judge of the election and qualifications of its own members; and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 8. The senate shall consist of thirteen members, and the house of representatives shall consist of thirty-nine members, and shall not be increased for the term of ten years after the adoption of this constitution: *Provided*, That after the expiration of said ten years, the legislature shall have power to increase the number of senators and representatives, so as to correspond with the increase of the population of the State: *Provided*, Such number shall at no time be more than twenty-five in the senate and seventy-five in the house of representatives.

SEC. 9. The mode of organizing the house of representatives at the commencement of each regular session shall be prescribed by law.

SEC. 10. Each house shall choose its own officers, may determine its own rule of proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers necessary to provide for its safety and the undisturbed transaction of its business.

SEC. 11. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any three members in the senate, or any five members in the house, the yeas and nays shall be entered upon the journal, and on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

SEC. 12. The first session of the legislature under this constitution shall be held on the fourth day of July, one thousand eight hundred and sixty-six; and all regular sessions thereafter shall commence on the first Thursday after the first Monday in January, biennially. But the legislature may on extraordinary occasions be convened by proclamation of the governor, and when so convened shall transact no business except such as relates to the objects for which they were so convened, to be stated in the proclamation of the governor.

SEC. 13. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 14. No person being a member of Congress, or holding any military or civil office under the United States, shall be eligible to a seat in the legislature; and if any person shall, after his election as a member of the legislature, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

SEC. 15. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

SEC. 16. Members of the legislature shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 17. No member of the legislature shall be liable in any civil action or criminal prosecution whatever for words spoken in debate.

SEC. 18. Bills may originate in either house; but may be altered, amended, or rejected in the other.



SEC. 19. Every bill shall be fully and distinctly read on three different days, unless, in case of urgency, three-fourths of the house in which it shall be pending shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended, unless the new act contain the entire act revived, and the sections amended; and the section or sections so amended shall be repealed.

SEC. 20. The presiding officer of each house shall sign publicly, in the presence of the house over which he presides, while the same is in session and capable of transacting business, all bills and joint resolutions passed by the legislature.

SEC. 21. Each member of the legislature shall receive for his services three dollars for each day's attendance during the session, and ten cents for every mile he shall travel in going to and returning from the place of the meeting of the legislature, on the most usual route: *Provided, however,* That they shall not receive pay for more than forty days at any one session.

SEC. 22. The legislature shall never authorize any lottery, or grant any divorce.

SEC. 23. The legislature shall provide by law that all stationery required for the use of the State, and all printing authorized and required by them to be done for their use, or for the State, shall be let by contract to the lowest bidder; but the legislature may establish a maximum price. No member of the legislature, or other State officer, shall be interested, either directly or indirectly, in any such contract.

SEC. 24. The legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 25. Members of the legislature and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States, and the constitution of the State of Nebraska, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 26. The legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same in such manner as shall be prescribed by law.

SEC. 27. In all elections by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SEC. 28. The house of representatives shall have the sole power of impeachment; but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

SEC. 29. The governor, secretary of state, auditor, treasurer, and judges of the supreme and district courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party con-

victed or acquitted shall nevertheless be liable to indictment, trial, and punishment, according to law. All other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide.

SEC. 30. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be made for a longer period than two years.

SEC. 31. The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this constitution.

SEC. 32. The legislature shall not authorize the borrowing of money or the issuance of State bonds for any sum exceeding in the aggregate fifty thousand dollars, without submitting a proposition therefor to a vote of the people for their approval or rejection, except in case of war, to repel invasion, or suppress insurrection.

#### EXECUTIVE

SECTION 1. The executive department shall consist of a governor, secretary of state, auditor, and treasurer, who shall be chosen by the electors of the State on the second Tuesday of October, and at the places of voting for members of the legislature.

SEC. 2. The governor, secretary of state, and treasurer shall hold their offices for two years, and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the legislature.

The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. No person except a citizen of the United States and a qualified elector of the State shall be eligible to any office provided for by this constitution.

SEC. 5. Should there be no session of the legislature in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared, by the governor, in such manner as may be provided by law.

SEC. 6. The supreme executive power of this State shall be vested in the governor.

SEC. 7. He may require information, in writing, from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 8. He shall communicate at every session, by message, to the legislature the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 9. He may, on extraordinary occasions, convene the legislature by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

SEC. 10. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the legislature to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 11. He shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States.

SEC. 12. He shall have power, after conviction, to grant reprieves, commutations, and pardons for all crimes and offences, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations as to the manner of applying for pardon as may be prescribed by law.

Upon conviction for treason he may suspend the execution of the sentence, and report the case to the legislature at its next meeting, when the legislature shall either pardon, commute the sentence, direct its execution, or grant a further reprieve.

He shall communicate to the legislature at every regular session each case of reprieve, commutation, or pardon granted; stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

SEC. 13. There shall be a seal of the State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Nebraska."

SEC. 14. All grants and commissions shall be issued in the name and by the authority of the State of Nebraska, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 15. No member of Congress, or other person holding office under the authority of this State, or of the United States, shall execute the office of governor, except as herein provided.

SEC. 16. In case of the impeachment of the governor, his removal from office, death, resignation, or absence from the State, the powers and duties of the office shall devolve upon the secretary of state, until such disability shall cease, or the vacancy be filled.

SEC. 17. If, during the vacancy of the office of governor, the secretary of state shall be impeached, displaced, resign, die, or be absent from the State, the powers and duties of the office of governor shall devolve upon the president of the senate; and should a vacancy occur by impeachment, death, resignation, or absence from the State of the president of the senate, the speaker of the house of representatives shall act as governor till the vacancy be filled.

SEC. 18. The governor shall receive during his continuance in office an annual compensation of one thousand dollars; the secretary of state, six hundred dollars; the State treasurer, four hundred dollars; and the State auditor, eight hundred dollars.

SEC. 19. Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall

agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned to the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. 20. The secretary, auditor, and treasurer of state shall severally perform such duties as shall be prescribed by law.

#### JUDICIARY

SECTION 1. The judicial power of the State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such inferior courts as the legislature may from time to time establish.

The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and shall hold a term of the supreme court at the seat of government of the State annually. Said supreme judges shall be elected by the qualified electors of the State, at such time and in such manner as may be provided by law. Said justices of the supreme court shall hold their office for the term of six years from the time of their election, and until their successors shall have been elected and qualified.

SEC. 2. The State shall be divided into three judicial districts, and the district courts shall be held at such times and places as may be provided by law, and the legislature shall by law assign the justices to hold district courts in the several districts: *Provided*, That until the legislature shall have provided by law, the governor shall have authority to make such assignment.

SEC. 3. The supreme court shall have appellate jurisdiction only except in cases relating to revenue, *mandamus*, *quo warranto*, *habeas corpus*, and such cases of impeachment as may be required to be tried before it; and both the supreme and district courts shall have both chancery and common-law jurisdiction.

SEC. 4. The jurisdiction of the several courts herein provided for, both appellate and original, shall be as fixed by law: *Provided*, That probate courts, justices of the peace, or any inferior court that may be established by the legislature, shall not have jurisdiction in any matter wherein the title or boundaries of land may be in dispute. Nor shall either of the courts mentioned in this proviso have power to order or decree the sale or partition of real estate: *And provided further*, That justices of the peace, and such inferior courts as may be established by the legislature, shall not have jurisdiction when the debt or sum claimed shall exceed one hundred dollars, and the jurisdiction of the district and probate courts, and justices of the peace, shall be uniform throughout the State.

SEC. 5. Probate judges, justices of the peace, and persons holding inferior courts, herein authorized to be established by the legislature, shall be elected by the electors of the several districts for which they may be elected, in the manner and time fixed by law.

SEC. 6. The salary of the justices of the supreme court shall be two thousand dollars each per annum and no more; and all other judicial officers shall be paid for their services in fees to be prescribed by law.

SEC. 7. The legislature shall by law provide that on the entry or commencement of any suit in the district court, the party so commencing or entering such suit shall, before the same is so commenced or entered, pay to the clerk of said district court the sum of five dollars; and in like manner on the entry or commencement of any suit in the supreme court, shall pay the sum of ten dollars to the clerk thereof; which money so paid shall be for the use of the State, and shall be paid by said clerks to the proper offices designated by law, as by law may be required; which money so received shall be held and esteemed as a judiciary fund, and to be applied in payment of the salaries of the justices of the supreme court. Which amounts so paid shall be taxed as costs against the unsuccessful party, and collected as other costs: *Provided*, The legislature may provide by law for dispensing with the payment of said sums of money in cases where the party so commencing or entering suit shall be really unable to pay the same, and the amount shall in all cases be taxed and collected as other costs: *Provided also*, That the legislature shall have power, whenever the amount so received shall exceed the salaries of the judges of the supreme court, to reduce the amount to be paid so that the gross amount will not exceed such salaries.

SEC. 8. The legislature may, after the year one thousand eight hundred and seventy-five, increase the number of justices of the supreme court, and the judicial districts of the State.

SEC. 9. In all cases heard before the supreme court, as an appellate court, the justice who may have tried such cause in the court below shall not participate in the decision thereof until the other two justices, if present, shall have failed to agree in the decision of such cause.

SEC. 10. All process, writs, and other proceedings shall run in the name of the "*The people of the State of Nebraska.*"

#### FINANCE

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or bound in aid of any individual, association, or corporation.

SEC. 3. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the expenses of such ensuing year.

SEC. 4. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed fifty thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such laws; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such



debt, and the principal within ten years from the passage of such law; and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SEC. 5. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 6. The State shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of lands or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvement, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

#### EMINENT DOMAIN

SECTION 1. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as such river shall form a common boundary to the State and any other State or Territory now or hereafter to be formed and bounded by the same. And the river Missouri, and the navigable waters leading into the Missouri, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the State as to the citizens of the United States, without any tax, impost, or duty therefor.

SEC. 2. The title to all lands and other property, which have accrued to the Territory of Nebraska, by grant, gift, purchase, forfeiture, escheat, or otherwise, shall vest in the State of Nebraska.

SEC. 3. The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from a defect of heirs shall revert or escheat to the people.

#### EDUCATION

SECTION 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or intrusted to this State, for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations. The legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

SEC. 2. The university lands, school lands, and all other lands which have been acquired by the Territory of Nebraska, or which may hereafter be acquired by the State of Nebraska, for educational or school purposes, shall not be aliened or sold for a less sum than five dollars per acre.

## CORPORATIONS

SECTION 1. The legislature shall pass no special act conferring corporate powers.

SEC. 2. Corporations may be formed under general laws.

SEC. 3. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

SEC. 4. The legislature shall provide for the organization of cities and incorporated villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credits, so as to prevent the abuse of such power.

## AMENDMENTS

SECTION 1. If at any time a majority of the senate and house of representatives shall deem it necessary to call a convention to revise or change this constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the legislature shall at its next session provide for calling such convention.

## BOUNDARIES

SECTION 1. The State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude to a point formed by its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to a point formed with its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude to a point formed by its intersection with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Reya Paha River; thence down the middle of the channel of said river, with its meanderings, to its junction with the Niobrara River; thence down the middle of the channel of said Niobrara River, and following the meanderings thereof, to its junction with the Missouri River; thence down the middle of the channel of said Missouri River, and following the meanderings thereof, to the place of beginning.

## SCHEDULE

SECTION 1. That no inconvenience may arise from the change of territorial government to a State government, it is declared that all rights, suits, actions, prosecutions, judgments, recognizances, claims, and contracts, both as respects persons and bodies-corporate, shall continue and be enforced as if no change had taken place, and all laws now in force shall remain in force until altered, amended, or repealed

by the legislature: *Provided*, Wherever the word "Territory" shall occur, it shall be construed to mean State, whenever it may be necessary, in order that such laws may conform to the State government.

SEC. 2. All debts, fines, penalties, recognizances, and forfeitures due and owing to the Territory of Nebraska shall inure to the benefit of the State, and all obligations and bonds to the Territory of Nebraska or any office thereof shall be esteemed and taken as due and owing to the State of Nebraska, and may be in such manner enforced.

SEC. 3. The governor and all other officers of the territorial government shall continue to discharge and exercise the duties of their respective offices, until superseded by the provisions of this constitution or the officers appointed or elected by authority of its provisions.

SEC. 4. The first election for governor, secretary of state, auditor of state, one Representative to Congress, the justices of the supreme court, the members of the senate and house of representatives, shall be held on the second day of June, one thousand eight hundred and sixty-six, at the places and in the manner now prescribed by law for general elections. The members of the senate shall be elected in and from the same districts that are now prescribed by law for councilmen districts. The members of the house of representatives shall be elected in and from the same districts that are now prescribed by law for members to the house of representatives of the Territory of Nebraska, and all the officers mentioned, to wit: Senators and representatives shall hold their offices until the first Monday in January, A. D. 1867; governor, secretary of state, State auditor and treasurer, until the second Monday in January, A. D. 1869, and until their successors are elected and qualified; the supreme judges until the first day of January, A. D. 1873.

SEC. 5. The first session of the legislature shall be held at the capitol in the city of Omaha, commencing on the fourth day of July, A. D. 1866.

SEC. 6. This constitution is formed, and the State of Nebraska asks to be admitted into the Union on an equal footing with the original States on the condition and faith of the terms and propositions stated and specified in an act of Congress approved April nineteenth, 1864, authorizing the people of the Territory to form a constitution and State government; the people of the State of Nebraska hereby accepting the conditions in said act specified.

SEC. 7. The foregoing constitution shall be submitted to the electors of the Territory of Nebraska at an election to be held on the second day of June, in the year one thousand eight hundred and sixty-six, in the several election districts of this Territory. The ballots at such elections shall be written or printed as follows:

Those in favor of the constitution, "For the constitution."

Those against the constitution, "Against the constitution."

The polls at said elections shall be opened at the hour of nine o'clock a. m., and closed at six o'clock p. m., and the returns of said elections shall be made to the acting governor of the Territory, who, together with the United States district attorney and chief justice of the Territory, or any two of them, shall canvass the same, and if a majority of the legal votes shall be cast for said constitution, the same shall be the constitution of Nebraska.

Said governor shall certify the same to the President of the United States: *Provided*, That the said election shall be conducted and the

returns made in the same manner and under the same regulations as are prescribed by law in the case of the election of territorial officers.

The election returns for the governor, secretary of state, auditor, treasurer, and supreme judges shall be made to the same offices and the canvass of such returns made in the same manner as is now prescribed by law for Delegate in Congress.

*Resolved by the council and house of representatives of the Territory of Nebraska,* That the foregoing constitution be submitted to the qualified electors of the Territory, for their adoption or rejection, at an election, hereby authorized to be held at the time and in the manner specified in the seventh section of the schedule of said constitution, and that the returns and canvass of the votes cast at said election be made as in said section prescribed.

JAMES G. MEGEATH,  
*Speaker of the House of Representatives.*  
O. P. MASON,  
*President of the Council.*

Approved, February 9, 1866:

ALVIN SAUNDERS,  
*Governor of the Territory of Nebraska.*

## CONSTITUTION OF NEBRASKA—1875 \* a

### PREAMBLE

We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the constitution of the State of Nebraska:

### ARTICLE I

#### BILL OF RIGHTS

SECTION 1. All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for punishment of crime, whereof the party shall have been duly convicted.

SEC. 3. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 4. All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect, or support any place of worship against his consent, and no preference shall be given by of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a

\* Verified by "The constitution of the State of Nebraska, Published by order of the Convention, Lincoln, Nebraska, 1875."

<sup>a</sup> This constitution was framed by a convention which met at Lincoln, and completed its labors June 12, 1875. It was submitted to the people and ratified October 12, 1875.

law to any religious society, nor shall any interference with the rights witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 5. Every person may freely speak, write, and publish on all subjects; being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

SEC. 6. The right of trial by jury shall remain inviolate, but the legislature may authorize trial by a jury of a less number than twelve men, in courts inferior to the district court.

SEC. 7. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion the public safety requires it, and then only in such manner as shall be prescribed by law.

SEC. 9. All persons shall be bailable by sufficient sureties, except for treason and murder, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. No person shall be held to answer for a criminal offense, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in case of impeachment, and in cases arising in the Army and Navy or in the militia, when in actual service in time of war or public danger, unless on a presentment or indictment of a grand jury: *Provided*, That the legislature may, by law, provide for holding persons to answer for criminal offenses on information of a public prosecutor; and may, by law, abolish, limit, change, amend, or otherwise regulate the grand-jury system.

SEC. 11. In all criminal prosecutions, the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 12. No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offense.

SEC. 13. All courts shall be open, and every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

SEC. 14. Treason against the State shall consist only in levying war against the State, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the tes-



timony of two witnesses to the same overt act, or on confession in open court.

SEC. 15. All penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offense committed within the State.

SEC. 16. No bill of attainder, *ex-post-facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities shall be passed.

SEC. 17. The military shall be in strict subordination to the civil power.

SEC. 18. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 19. The right of the people peaceably to assemble to consult for the common good and to petition the government or any department thereof shall never be abridged.

SEC. 20. No person shall be imprisoned for debt in any civil action on mesne or final process unless in cases of fraud.

SEC. 21. The property of no person shall be taken or damaged for public use without just compensation therefor.

SEC. 22. All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.

SEC. 23. The writ of error shall be a writ of right in all cases of felony; and in capital cases shall operate as a supersedeas to stay the execution of the sentence of death until the further order of the supreme court in the premises.

SEC. 24. The right to be heard in all civil cases in the court of last resort, by appeal, error, or otherwise, shall not be denied.

SEC. 25. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

SEC. 26. This enumeration of rights shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

## ARTICLE II

### DISTRIBUTION OF POWERS

SECTION. 1. The powers of the governor of this State are divided into three distinct departments: the legislative, executive, and judicial, and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

## ARTICLE III

### LEGISLATIVE

SECTION 1. The legislative authority is vested in a senate and house of representatives.

SEC. 2. The legislature shall provide by law for an enumeration of the inhabitants of the State in the year eighteen hundred and

eighty-five, and every ten years thereafter; and at its first regular session after each enumeration, and also after each enumeration made by the authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States Army and Navy.

SEC. 3. The house of representatives shall consist of eighty-four members, and the senate shall consist of thirty members, until the year eighteen hundred and eighty, after which time the number of members of each house shall be regulated by law; but the number of representatives shall never exceed one hundred, nor that of senators thirty-three. The sessions of the legislature shall be biennial, except as otherwise provided in this constitution.

<sup>a</sup> SEC. 4. The terms of office of members of the legislature shall be two years, and they shall each receive for their services three dollars for each day's attendance during the session, and ten cents for every mile they shall travel in going to and returning from the place of meeting of the legislature on the most usual route: *Provided, however,* That they shall not receive pay for more than forty days at any one session; and neither members of the legislature nor employés shall receive any pay or perquisites other than their per diem and mileage.

SEC. 5. No person shall be eligible to the office of senator or member of the house of representatives who shall not be an elector, and have resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States, or of this State. And no person elected as aforesaid shall hold his office after he shall have removed from such district.

SEC. 6. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to precinct or township officers, justices of the peace, notaries public, or officers of the militia; nor shall any person interested in a contract with, or an unadjusted claim against, the State hold a seat in the legislature.

SEC. 7. The session of the legislature shall commence at twelve o'clock (noon) on the first Tuesday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings and be the judge of the election-returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new legislature, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the

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<sup>a</sup> Amended, 1886.

house by disorderly or contemptuous behavior in its presence, but no such imprisonment shall extend beyond twenty-four hours at one time unless the person shall persist in such disorderly or contemptuous behavior.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them, (except such parts as may require secrecy,) and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal. All votes in either house shall be *viva voce*. The doors of each house and of the committee of the whole shall be open, unless when the business shall be such as ought to be kept secret. Neither house shall, without the consent of the other, adjourn for more than three days.

SEC. 9. Any bill may originate in either house of the legislature, except bills appropriating money, which shall originate only in the house of representatives, and all bills passed by one house may be amended by the other.

SEC. 10. The enacting clause of a law shall be, "Be it enacted by the legislature of the State of Nebraska," and no law shall be enacted except by bill. No bill shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 11. Every bill and concurrent resolution shall be read at large on three different days in each house, and the bill and all amendments thereto shall be printed before the vote is taken upon its final passage. No bill shall contain more than one subject, and the same shall be clearly expressed in its title. And no law shall be amended unless the new act contains the section or sections so amended, and the section or sections so amended shall be repealed. The presiding officer of each house shall sign, in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and concurrent resolutions passed by the legislature.

SEC. 12. Members of the legislature, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the legislature, and for fifteen days before the commencement and after the termination thereof.

SEC. 13. No person elected to the legislature shall receive any civil appointment within this State, from the governor and senate during the term for which he has been elected. And all such appointments, and all votes given for any such member for any such office or appointment, shall be void. Nor shall any member of the legislature, or any State officer, be interested, either directly or indirectly, in any contract with the State, county, or city, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

SEC. 14. The senate and house of representatives in joint convention shall have the sole power of impeachment, but a majority of the members elected must concur therein. Upon the entertainment of a resolution to impeach, by either house, the other house shall at once be notified thereof, and the two houses shall meet in joint convention for the purpose of acting upon such resolution within three days of such notification. A notice of an impeachment of any officer, other than a justice of the supreme court, shall be forthwith served upon the chief-justice by the secretary of the senate, who shall thereupon call

a session of the supreme court to meet at the capital within ten days after such notice to try the impeachment. A notice of an impeachment of a justice of the supreme court shall be served by the secretary of the senate upon the judge of the judicial district within which the capital is located, and he thereupon shall notify all the judges of the district court in the State to meet with him within thirty days at the capital, to sit as a court to try such impeachment, which court shall organize by electing one of its number to preside. No person shall be convicted without the concurrence of two-thirds of the members of the court of impeachment, but judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit, or trust in this State, but the party impeached, whether convicted or acquitted, shall nevertheless be liable to prosecution and punishment according to law. No officer shall exercise his official duties after he shall have been impeached and notified thereof, until he shall have been acquitted.

SEC. 15. The legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town-plats, streets, alleys, and public grounds.

Locating or changing county-seats.

Regulating county and township offices.

Regulating the practice of courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, and villages, or changing or amending the charter of any town, city, or village.

Providing for the election of officers in townships, incorporated towns, or cities.

Summoning or impaneling grand or petit juries.

Providing for the bonding of cities, towns, precincts, school-districts, or other municipalities.

Providing for the management of public schools.

Regulating the interest on money.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game or fish.

Chartering or licensing ferries or toll-bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, and decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual the right to lay down railroad-tracks, or amending existing charters for such purpose.

Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever. In all other

cases where a general law can be made applicable, no special law shall be enacted.

SEC. 16. The legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor after the services shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 17. The legislature shall never alienate the salt-springs belonging to this State.

SEC. 18. Lands under control of the State shall never be donated to railroad companies, private corporations, or individuals.

SEC. 19. Each legislature shall make appropriations for the expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, and all appropriations shall end with such fiscal quarter. And whenever it is deemed necessary to make further appropriations for deficiencies, the same shall require a two-thirds vote of all the members elected to each house, and shall not exceed the amount of revenue authorized by law to be raised in such time. Bills making appropriations for the pay of members and officers of the legislature, and for the salaries of the officers of the government, shall contain no provision on any other subject.

SEC. 20. All offices created by this constitution shall become vacant by the death of the incumbent, by removal from the State, resignation, conviction of a felony, impeachment, or becoming of unsound mind. And the legislature shall provide by general law for the filling of such vacancy when no provision is made for that purpose in this constitution.

SEC. 21. The legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretence, or for any purpose whatever.

SEC. 22. No allowance shall be made for the incidental expenses of any State officer except the same be made by general appropriation and upon an account specifying each item. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law and on the presentation of a warrant issued by the auditor thereon, and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the legislature, prepare and publish a full statement of all moneys expended at such session, specifying the amount of each item, and to whom and for what paid.

SEC. 23. No member of the legislature shall be liable in any civil or criminal action whatever for words spoken in debate.

SEC. 24. No act shall take effect until three calendar months after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct. All laws shall be published in book form within sixty days after the adjournment of each session, and distributed among the several counties in such manner as the legislature may provide.



## ARTICLE IV

## LEGISLATIVE APPORTIONMENT \*

Until otherwise provided by law, senatorial and representative districts shall be formed, and senators and representatives apportioned, as follows:

## SENATORIAL DISTRICTS

District No. 1 shall consist of the county of Richardson, and be entitled to two senators.

District No. 2 shall consist of the county of Nemaha, and be entitled to one senator.

District No. 3 shall consist of the county of Otoe, and be entitled to two senators.

District No. 4 shall consist of the county of Cass, and be entitled to one senator.

District No. 5 shall consist of the county of Douglas, and be entitled to two senators.

District No. 6 shall consist of the counties of Douglas and Sarpy, and be entitled to one senator.

District No. 7 shall consist of the county of Washington, and be entitled to one senator.

District No. 8 shall consist of the county of Dodge, and be entitled to one senator.

District No. 9 shall consist of the county of Cuming, and be entitled to one senator.

District No. 10 shall consist of the counties of Burt and Dakota, and be entitled to one senator.

District No. 11 shall consist of the counties of Madison, Stanton, Wayne, Pierce, Antelope, and Boone, and be entitled to one senator.

District No. 12 shall consist of the counties of Dixon, Cedar, Knox, Holt, and the unorganized territory west of Holt, and be entitled to one senator.

District No. 13 shall consist of the counties of Hall, Howard, Merrick, Greeley, and the unorganized territory north of Greeley, and be entitled to one senator.

District No. 14 shall consist of the counties of Platte and Colfax, and be entitled to one senator.

District No. 15 shall consist of the counties of Butler and Polk, and be entitled to one senator.

District No. 16 shall consist of the county of Saunders, and be entitled to one senator.

District No. 17 shall consist of the county of Lancaster, and be entitled to two senators.

District No. 18 shall consist of the counties of Johnson and Pawnee, and be entitled to one senator.

District No. 19 shall consist of the counties of Gage and Jefferson, and be entitled to one senator.

District No. 20 shall consist of the county of Saline, and be entitled to one senator.

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\* The apportionment is now regulated by law.

District No. 21 shall consist of the county of Seward, and be entitled to one senator.

District No. 22 shall consist of the counties of York and Hamilton, and be entitled to one senator.

District No. 23 shall consist of the counties of Fillmore and Clay, and be entitled to one senator.

District No. 24 shall consist of the counties of Adams, Webster, Nuckolls, and Thayer, and be entitled to one senator.

District No. 25 shall consist of the counties of Buffalo, Kearney, Franklin, Harlan, Phelps, Sherman, Valley, and the unorganized territory west of Sherman, Valley, and senatorial district No. 13, and be entitled to one senator.

District No. 26 shall consist of the counties of Lincoln, Dawson, Gosper, Furnas, Red Willow, Frontier, Hitchcock, Dundy, Chase, Keith, Cheyenne, and the unorganized territory west of Frontier, and between Frontier and Chase, and be entitled to one senator.

#### REPRESENTATIVE DISTRICTS

District No. 1 shall consist of the county of Richardson, and be entitled to four representatives.

District No. 2 shall consist of the county of Pawnee, and be entitled to two representatives.

District No. 3 shall consist of the county of Gage, and be entitled to two representatives.

District No. 4 shall consist of the county of Johnson, and be entitled to two representatives.

District No. 5 shall consist of the county of Nemaha, and be entitled to three representatives.

District No. 6 shall consist of the county of Otoe, and be entitled to four representatives.

District No. 7 shall consist of the county of Lancaster, and be entitled to four representatives.

District No. 8 shall consist of the county of Saunders, and be entitled to three representatives.

District No. 9 shall consist of the county of Cass, and be entitled to three representatives.

District No. 10 shall consist of the county of Sarpy, and be entitled to one representative.

District No. 11 shall consist of the county of Douglas, and be entitled to eight representatives.

District No. 12 shall consist of the county of Dodge, and be entitled to two representatives.

District No. 13 shall consist of the county of Washington, and be entitled to two representatives.

District No. 14 shall consist of the county of Burt, and be entitled to one representative.

District No. 15 shall consist of the county of Cuming, and be entitled to two representatives.

District No. 16 shall consist of the county of Dakota, and be entitled to one representative.

District No. 17 shall consist of the county of Dixon, and be entitled to one representative.

District No. 18 shall consist of the county of Jefferson, and be entitled to one representative.

District No. 19 shall consist of the county of Thayer, and be entitled to one representative.

District No. 20 shall consist of the county of Nuckolls, and be entitled to one representative.

District No. 21 shall consist of the county of Webster, and be entitled to one representative.

District No. 22 shall consist of the county of Adams, and be entitled to one representative.

District No. 23 shall consist of the county of Clay, and be entitled to one representative.

District No. 24 shall consist of the county of Fillmore, and be entitled to one representative.

District No. 25 shall consist of the county of Saline, and be entitled to three representatives.

District No. 26 shall consist of the county of Seward, and be entitled to two representatives.

District No. 27 shall consist of the county of York, and be entitled to two representatives.

District No. 28 shall consist of the county of Hamilton, and be entitled to one representative.

District No. 29 shall consist of the county of Hall, and be entitled to one representative.

District No. 30 shall consist of the county of Buffalo, and be entitled to one representative.

District No. 31 shall consist of the county of Lincoln, and be entitled to one representative.

District No. 32 shall consist of the county of Harlan, and be entitled to one representative.

District No. 33 shall consist of the counties of Howard and Greeley, and be entitled to one representative.

District No. 34 shall consist of the county of Merrick, and be entitled to one representative.

District No. 35 shall consist of the county of Polk, and be entitled to one representative.

District No. 36 shall consist of the county of Butler, and be entitled to one representative.

District No. 37 shall consist of the county of Colfax, and be entitled to one representative.

District No. 38 shall consist of the county of Platte, and be entitled to one representative.

District No. 39 shall consist of the county of Madison, and be entitled to one representative.

District No. 40 shall consist of the county of Cedar, and be entitled to one representative.

District No. 41 shall consist of the counties of Burt and Dodge, and be entitled to one representative.

District No. 42 shall consist of the counties of Stanton, Wayne, and Pierce, and be entitled to one representative.

District No. 43 shall consist of the counties of Knox and Holt, and the unorganized territory west of Holt, and be entitled to one representative.

District No. 44 shall consist of the county of Antelope, and be entitled to one representative.

District No. 45 shall consist of the counties of Boone, Valley, Sherman, and the unorganized territory west of Sherman and Valley Counties, and west of the thirteenth senatorial district, and be entitled to one representative.

District No. 46 shall consist of the counties of Dawson and Frontier, and be entitled to one representative.

District No. 47 shall consist of the counties of Franklin and Kearney, and be entitled to one representative.

District No. 48 shall consist of the counties of Furnas, Phelps, and Gosper, and be entitled to one representative.

District No. 49 shall consist of the counties of Cheyenne, Keith, Dundy, Chase, Hitchcock, Red Willow, and the unorganized territory north of the county of Hitchcock, and be entitled to one representative.

District No. 50 shall consist of the counties of Cass and Saunders, and be entitled to one representative.

District No. 51 shall consist of the counties of Platte, Colfax, and Butler, and be entitled to one representative.

District No. 52 shall consist of the counties of Fillmore and Clay, and be entitled to one representative.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney-general, and commissioner of public lands and buildings, who shall each hold his office for the term of two years from the first Thursday after the first Tuesday in January next after his election, and until his successor is elected and qualified: *Provided, however,* That the first election of said officers shall be held on the Tuesday succeeding the first Monday in November, 1876, and each succeeding election shall be held at the same relative time in each even year thereafter. The governor, secretary of state, auditor of public accounts, and treasurer shall reside at the seat of government during their terms of office, and keep the public records, books, and papers there, and shall perform such duties as may be required by law.

SEC. 2. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty years, and been for two years next preceding his election a citizen of the United States and of this State. None of the officers of the executive department shall be eligible to any other State office during the period for which they shall have been elected.

SEC. 3. The treasurer shall be ineligible to the office of treasurer for two years next after the expiration of two consecutive terms for which he was elected.

SEC. 4. The returns of every election for the officers of the executive department shall be sealed up and transmitted by the returning-officers to the secretary of state, directed to the speaker of the house

of representatives, who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the legislature, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes, the legislature shall, by a joint vote, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the legislature, by joint vote, in such manner as may be prescribed by law.

SEC. 5. All civil officers of this State shall be liable to impeachment for any misdemeanor in office.

SEC. 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 7. The governor shall, at the commencement of each session, and at the close of his term of office, and whenever the legislature may require, give to the legislature information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the legislature, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by proclamation, stating therein the purpose for which they are convened, and the legislature shall enter upon no business except that for which they were called together.

SEC. 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the legislature to such time as he thinks proper, not beyond the first day of the next regular session.

SEC. 10. The governor shall nominate and, by and with the advice and consent of the senate, (expressed by a majority of all the senators elected voting, by yeas and nays,) appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise by law or herein provided for; and no such officer shall be appointed or elected by the legislature.

SEC. 11. In case of a vacancy during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate, (a majority of all the senators elected concurring by voting yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at request of the senate, or be appointed to the same office during the recess of the legislature.

SEC. 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfea-



sance in office; and he may declare his office vacant, and fill the same as herein provided in other cases of vacancy.

SEC. 13. The governor shall have the power to grant reprieves, commutations, and pardons after conviction, for all offenses, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the reprieve, commutation, or pardon.

SEC. 14. The governor shall be commander-in-chief of the military and naval forces of the State, (except when they shall be called into the service of the United States,) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

SEC. 15. Every bill passed by the legislature, before it becomes a law, and every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on questions of adjournment,) shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then three-fifths of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by three-fifths of the members elected to that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered upon the journal. Any bill which shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, shall become a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return; in which case it shall be filed, with his objections, in the office of the secretary of state within five days after such adjournment, or become a law. The governor may disapprove any item or items of appropriation contained in bills passed by the legislature, and the item or items so disapproved shall be stricken therefrom, unless repassed in the manner herein prescribed in cases of disapproval of bills.

SEC. 16. In case of the death, impeachment and notice thereof to the accused, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 17. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided.

SEC. 18. If there be no lieutenant-governor, or if the lieutenant-governor, for any of the causes specified in section sixteen of this

article, become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 19. The commissioner of public lands and buildings, the secretary of state, treasurer, and attorney-general shall form a board, which shall have general supervision and control of all the buildings, grounds, and lands of the State, the State prison, asylums, and all other institutions thereof, except those for educational purposes; and shall perform such duties and be subject to such rules and regulations as may be prescribed by law.

SEC. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, commissioner of public lands and buildings, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment; and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law.

SEC. 21. An account shall be kept by the officers of the executive department and of all the public institutions of the State, of all moneys received or disbursed by them severally from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly.

SEC. 22. The officers of the executive department and of all the public institutions of the State shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature, together with the reports of the judges of the supreme court, of defects in the constitution and laws, and the governor, or either house of the legislature, may at any time require information in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 23. There shall be a seal of the State, which shall be called the "Great Seal of the State of Nebraska," which shall be kept by the secretary of state, and used by him officially, as directed by law.

SEC. 24. The salaries of the governor, auditor of public accounts, and treasurer shall be two thousand five hundred dollars each per annum, and of the secretary of state, attorney-general, superintendent of public instruction, and commissioner of public lands and buildings, two thousand dollars each per annum. The lieutenant-governor shall receive twice the compensation of a senator, and after the adoption of this constitution they shall not receive, to their own use, any fees, costs, interest upon public moneys in their hands or under their control, perquisites of office, or other compensation, and all fees that may hereafter be payable by law for services performed by any officer, provided for in this article of the constitution, shall be paid in advance into the State treasury. There shall be no allowance for clerk-hire in the offices of the superintendent of public instruction and attorney-general.

SEC. 25. The officers mentioned in this article shall give bonds in

not less than double the amount of money that may come into their hands, and in no case in less than the sum of fifty thousand dollars, with such provisions as to sureties and the approval thereof, and for the increase of the penalty of such bonds as may be prescribed by law.

SEC. 26. No other executive State office shall be continued or created, and the duties now devolving upon officers not provided for by this constitution shall be performed by the officers herein created.

## ARTICLE VI

### THE JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in a supreme court, district courts, county courts, justices of the peace, police magistrates, and in such other courts inferior to the district courts as may be created by law for cities and incorporated towns.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or to pronounce a decision. It shall have original jurisdiction in cases relating to the revenue, civil cases in which the State shall be a party, mandamus, quo warranto, habeas corpus, and such appellate jurisdiction as may be provided by law.

SEC. 3. At least two terms of the supreme court shall be held each year, at the seat of government.

SEC. 4. The judges of the supreme court shall be elected by the electors of the State at large, and their terms of office, except of those chosen at the first election, as hereinafter provided, shall be six years.

SEC. 5. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office for the term of two years, one for the term of four years, and one for the term of six years.

SEC. 6. The judge of the supreme court having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief-justice, and as such shall preside at all terms of the supreme court; and, in case of his absence, the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 7. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States; nor unless he shall have resided in this State at least three years next preceding his election.

SEC. 8. There shall be appointed by the supreme court a reporter, who shall also act as clerk of the supreme court and librarian of the law and miscellaneous library of the State, whose term of office shall be four years, unless sooner removed by the court, whose salary shall be fixed by law, not to exceed fifteen hundred dollars per annum. The copyright of the State reports shall forever belong to the State.

SEC. 9. The district courts shall have both chancery and common-law jurisdiction, and such other jurisdiction as the legislature may provide, and the judges thereof may admit persons charged with felony to a plea of guilty, and pass such sentence as may be prescribed by law.

SEC. 10. The State shall be divided into six judicial districts, in each of which shall be elected, by the electors thereof, one judge, who

shall be the judge of the district court therein, and whose term of office shall be four years.

Until otherwise provided by law, said districts shall be as follows:

*First district.*—The counties of Richardson, Johnson, Pawnee, Gage, Jefferson, Saline, Thayer, Clay, Nuckolls, and Fillmore.

*Second district.*—The counties of Nemaha, Otoe, Cass, and Lancaster.

*Third district.*—The counties of Douglas, Sarpy, Washington, and Burt.

*Fourth district.*—The counties of Saunders, Dodge, Butler, Colfax, Platte, Polk, Merrick, Hamilton, York, Seward, Hall, and Howard.

*Fifth district.*—The counties of Buffalo, Adams, Webster, Franklin, Harlan, Kearney, Phelps, Gosper, Furnas, Hitchcock, Dundy, Chase, Cheyenne, Keith, Lincoln, Dawson, Sherman, Red Willow, Frontier, and the unorganized territory west of said district.

*Sixth district.*—The counties of Cuming, Dakota, Dixon, Cedar, Wayne, Stanton, Madison, Boone, Pierce, Knox, Antelope, Holt, Greeley, Valley, and the unorganized territory west of said district.

SEC. 11. The legislature, whenever two-thirds of the members elected to each house shall concur therein, may, in or after the year one thousand eight hundred and eighty, and not oftener than once in every four years, increase the number of judges of the district courts, and the judicial districts of the State. Such districts shall be formed of compact territory, and bounded by county lines; and such increase, or any change in the boundaries of a district, shall not vacate the office of any judge.

SEC. 12. The judges of the district courts may hold courts for each other, and shall do so when required by law.

SEC. 13. The judges of the supreme and district courts shall each receive a salary of two thousand five hundred dollars per annum, payable quarterly.

SEC. 14. No judge of the supreme or district courts shall receive any other compensation, perquisite, or benefit for or on account of his office in any form whatever; nor act as attorney or counsellor at law, in any manner whatever; nor shall any salary be paid to any county judge.

SEC. 15. There shall be elected in and for each organized county one judge, who shall be judge of the county court of such county, and whose term of office shall be two years.

SEC. 16. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlements of estates of deceased persons, appointment of guardians, and settlement of their accounts, in all matters relating to apprentices, and such other jurisdiction as may be given by general law. But they shall not have jurisdiction in criminal cases in which the punishment may exceed six months' imprisonment, or a fine of over five hundred dollars; nor in actions in which title to real estate is sought to be recovered, or may be drawn in question; nor in actions on mortgages or contracts for the conveyance of real estate; nor in civil actions where the debt or sum claimed shall exceed one thousand dollars.

SEC. 17. Appeals to the district courts from the judgments of county courts shall be allowed in all criminal cases on application of the defendant; and in all civil cases on application of either party, and in such other cases as may be provided by law.

SEC. 18. Justices of the peace and police magistrates shall be elected in and for such districts, and have and exercise such jurisdiction as may be provided by law: *Provided*, That no justice of the peace shall have jurisdiction of any civil case where the amount in controversy shall exceed two hundred dollars; nor in a criminal case where the punishment may exceed three months' imprisonment, or a fine of over one hundred dollars; nor in any matter wherein the title or boundaries of land may be in dispute.

SEC. 19. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction, powers, proceedings, and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts severally shall be uniform.

SEC. 20. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall respectively reside in the district, county, or precinct for which they shall be elected or appointed. The terms of office of all such officers, when not otherwise prescribed in this article, shall be two years. All officers, when not otherwise provided for in this article, shall perform such duties and receive such compensation as may be provided by law.

SEC. 21. In case the office of any judge of the supreme court, or of any district court, shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be elected and qualified, and such successors shall be elected for the unexpired term at the first general election that occurs more than thirty days after the vacancy shall have happened. Vacancies in all other elective offices provided for in this article shall be filled by election, but when the unexpired term does not exceed one year the vacancy may be filled by appointment, in such manner as the legislature may provide.

SEC. 22. The State may sue and be sued, and the legislature shall provide by law in what manner and in what courts suits shall be brought.

SEC. 23. The several judges of the courts of record shall have such jurisdiction at chambers as may be provided by law.

SEC. 24. All process shall run in the name of "The State of Nebraska," and all prosecutions shall be carried on in the name of "The State of Nebraska."

## ARTICLE VII

### RIGHTS OF SUFFRAGE

SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the State six months, and in the county, precinct, or ward for the term provided by law, shall be an elector:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to an election.

SEC. 2. No person shall be qualified to vote who is *non compos mentis*, or who has been convicted of treason or felony under the law of the State, or of the United States, unless restored to civil rights.



SEC. 3. Every elector in the actual military service of the United States, or of this State, and not in the Regular Army, may exercise the right of suffrage at such place and under such regulations as may be provided by law.

SEC. 4. No soldier, seaman, or marine in the Army and Navy of the United States shall be deemed a resident of the State in consequence of being stationed therein.

SEC. 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and going to and returning from the same; and no elector shall be obliged to do military duty on the days of election, except in time of war and public danger.

SEC. 6. All votes shall be by ballot.

## ARTICLE VIII

### EDUCATION

SECTION 1. The governor, secretary of state, treasurer, attorney-general, and commissioner of public lands and buildings shall, under the direction of the legislature, constitute a board of commissioners for the sale, leasing, and general management of all lands and funds set apart for educational purposes, and for the investment of school-funds in such manner as may be prescribed by law.

SEC. 2. All lands, money, or other property granted or bequeathed, or in any manner conveyed to this State for educational purposes, shall be used and expended in accordance with the terms of such grant, bequest, or conveyance.

SEC. 3. The following are hereby declared to be perpetual funds for common-school purposes, of which the annual interest or income only can be appropriated, to wit:

First. Such per centum as has been or may hereafter be granted by Congress on the sale of lands in this State.

Second. All moneys arising from the sale or leasing of sections number sixteen and thirty-six in each township in this State, and the lands selected or that may be selected in lieu thereof.

Third. The proceeds of all lands that have been or may hereafter be granted to this State, where, by the terms and conditions of such grant, the same are not to be otherwise appropriated.

Fourth. The net proceeds of lands and other property and effects that may come to the State, by escheat or forfeiture, or from unclaimed dividends, or distributive shares of the estates of deceased persons.

Fifth. All moneys, stocks, bonds, lands, and other property now belonging to the common-school fund.

SEC. 4. All other grants, gifts, and devises that have been or may hereafter be made to this State, and not otherwise appropriated by the terms of the grant, gift, or devise; the interest arising from all the funds mentioned in the preceding section, together with all the rents of the unsold school-lands, and such other means as the legislature may provide, shall be exclusively applied to the support and maintenance of common schools in each school-district in the State.

SEC. 5. All fines, penalties, and license-moneys arising under the general laws of the State shall belong and be paid over to the counties

respectively where the same may be levied or imposed; and all fines, penalties, and license-moneys arising under the rules, by-laws, or ordinances of cities, villages, towns, precincts, or other municipal subdivisions less than a county shall belong and be paid over to the same respectively. All such fines, penalties, and license-moneys shall be appropriated exclusively to the use and support of common schools in the respective subdivisions where the same may accrue.

SEC. 6. The legislature shall provide for the free instruction in the common schools of this State of all persons between the ages of five and twenty-one years.

SEC. 7. Provisions shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools, among the several school-districts of the State; and no appropriation shall be made from said fund to any district for the year in which school is not maintained at least three months.

SEC. 8. University, agricultural-college, common-school, or other lands, which are now held, or may hereafter be acquired by the State for educational purposes, shall not be sold for less than seven dollars per acre, nor less than the appraised value.

SEC. 9. All funds belonging to the State for educational purposes, the interest and income whereof only are to be used, shall be deemed trust-funds held by the State, and the State shall supply all losses thereof that may in any manner accrue, so that the same shall remain forever inviolate and undiminished; and shall not be invested or loaned except on United States or State securities, or registered county bonds of this State; and such funds, with the interest and income thereof, are hereby solemnly pledged for the purposes for which they are granted and set apart, and shall not be transferred to any other fund for other uses.

SEC. 10. The general government of the University of Nebraska shall, under the direction of the legislature, be vested in a board of six regents, to be styled the board of regents of the University of Nebraska, who shall be elected by the electors of the State at large, and their term of office, except those chosen at the first election, as hereinafter provided, shall be six years. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be re-imbursed their actual expenses incurred in the discharge of their duties.

SEC. 11. No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the State accept any grant, conveyance, or bequest of money, lands, or other property, to be used for sectarian purposes.

SEC. 12. The legislature may provide by law for the establishment of a school or schools for the safe-keeping, education, employment, and reformation of all children under the age of sixteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.

## ARTICLE IX

### REVENUE AND FINANCE

SECTION 1. The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its

property and franchises, the value to be ascertained in such manner as the legislature shall direct; and it shall have power to tax peddlers, auctioneers, brokers, hawkers, commission-merchants, showmen, jugglers, inn-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph, and express interests or business, venders of patents, in such manner as it shall direct by general law, uniform as to the class upon which it operates.

SEC. 2. The property of the State, counties and municipal corporations, both real and personal, shall be exempt from taxation, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation, but such exemption shall be only by general law. In the assessment of real estate incumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property. The legislature may provide that the increased value of lands, by reason of live fences, fruit, and forest trees grown and cultivated thereon, shall not be taken into account in the assessment thereof.

SEC. 3. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessment of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof: *Provided*, That occupants shall in all cases be served with personal notice before the time of redemption expires.

SEC. 4. The legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever.

SEC. 5. County authorities shall never assess taxes the aggregate of which shall exceed one and a half dollars per one hundred dollars valuation, except the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

SEC. 6. The legislature may vest the corporate authorities of cities, towns, and villages, with power to make local improvements by special assessments, or by special taxation of property benefited. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

SEC. 7. Private property shall not be liable to be taken or sold for the payment of the corporate debts of municipal corporations. The legislature shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes.

SEC. 8. The legislature at its first session shall provide a law for the funding of all outstanding warrants and other indebtedness of the State, at a rate of interest not exceeding eight per cent. per annum.

SEC. 9. The legislature shall provide by law that all claims upon the treasury shall be examined and adjusted by the auditor and approved by the secretary of state before any warrant for the amount allowed shall be drawn: *Provided*, That a party aggrieved by the decision of the auditor and secretary of state may appeal to the district court.

## ARTICLE X

## COUNTIES

SECTION 1. No new county shall be formed or established by the legislature which will reduce the county or counties, or either of them, to a less area than four hundred square miles, nor shall any county be formed of a less area.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without first submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 3. There shall be no territory stricken from any organized county unless a majority of the voters living in such territory shall petition for such division, and no territory shall be added to any organized county without the consent of the majority of the voters of the county to which it is proposed to be added; but the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for and obliged to pay its proportion of the indebtedness of the counties from which it has been taken.

SEC. 4. The legislature shall provide by law for the election of such county and township officers as may be necessary.

SEC. 5. The legislature shall provide by general law for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election in the manner that shall be provided by law.

## ARTICLE XI

## RAILROAD CORPORATIONS

SECTION 1. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, or of any other State, or of the United States, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities; and the names and places of residence of its officers. The directors of every railroad corporation, or other parties having control of its road, shall annually make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of the amount received from passengers and freight, and such other matters relating to railroads as may be prescribed by law. And the legislature shall pass laws enforcing, by suitable penalties, the provisions of this section.

SEC. 2. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State shall be liable to execution and sale, in the same manner as the personal property of

individuals; and the legislature shall pass no law exempting any such property from execution and sale.

SEC. 3. No railroad corporation or telegraph company shall consolidate its stock, property, franchises, or earnings, in whole or in part, with any other railroad corporation or telegraph company owning a parallel or competing line; and in no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

SEC. 4. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State. The liability of railroad corporations as common carriers shall never be limited.

SEC. 5. No railroad corporation shall issue any stock or bonds, except for money, labor, or property actually received and applied to the purposes for which such corporation was created, and all stock, dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation shall be void. The capital stock of railroad corporations shall not be increased for any purpose, except after public notice for sixty days, in such manner as may be provided by law.

SEC. 6. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the legislature, of the property and franchises of incorporated companies already organized or hereafter to be organized, and subjecting them to the public necessity, the same as of individuals.

SEC. 7. The legislature shall pass laws to prevent abuses and prevent unjust discrimination and extortion in all charges of express, telegraph, and railroad companies in this State, and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

SEC. 8. No railroad corporation organized under the laws of any other State, or of the United States, and doing business in this State, shall be entitled to exercise the right of eminent domain, or have power to acquire the right of way or real estate for depot or other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this State.

#### MUNICIPAL CORPORATIONS

SECTION 1. No city, county, town, precinct, municipality, or other subdivision of the State shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein, of any railroad or private corporation, or association.

#### MISCELLANEOUS CORPORATIONS

SECTION 1. No corporation shall be created by special law, nor its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and



remain under the patronage and control of the State, but the legislature shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time or repealed.

SEC. 2. No such general law shall be passed by the legislature granting the right to construct and operate a street-railroad within any city, town, or incorporated village without first requiring the consent of a majority of the electors thereof.

SEC. 3. All corporations may sue and be sued in like cases as natural persons.

SEC. 4. In all cases of claims against corporations and joint-stock associations the exact amount justly due shall be first ascertained, and after the corporate property shall have been exhausted, the original subscribers thereof shall be individually liable to the extent of their unpaid subscription, and the liability for the unpaid subscription shall follow the stock.

SEC. 5. The legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them upon the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SEC. 6. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not be in operation within sixty days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

SEC. 7. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him held, to an amount equal to his respective stock or shares so held, for all its liabilities accruing while he remains such stockholder; and all banking corporations shall publish quarterly statements, under oath, of their assets and liabilities.

## ARTICLE XII

### STATE, COUNTY, AND MUNICIPAL INDEBTEDNESS

SECTION 1. The State may, to meet casual deficits, or failures in the revenues, contract debts never to exceed in the aggregate one hundred thousand dollars; and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war; and provision shall be made for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest by such tax shall be irrepealable until such debt be paid.

SEC. 2. No city, county, town, precinct, municipality, or other subdivision of the State shall ever make donations to any railroad or other work of internal improvement, unless a proposition so to do

shall have been first submitted to the qualified electors thereof at an election by authority of law: *Provided*, That such donations of a county with the donations of such subdivisions in the aggregate shall not exceed ten per cent. of the assessed valuation of such county: *Provided further*, That any city or county may, by a two-thirds vote, increase such indebtedness five per cent. in addition to such ten per cent., and no bonds or evidences of indebtedness so issued shall be valid unless the same shall have indorsed thereon a certificate signed by the secretary and auditor of state, showing that the same is issued pursuant to law.

SEC. 3. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

### ARTICLE XIII

#### MILITIA

SECTION 1. The legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same.

### ARTICLE XIV

#### MISCELLANEOUS PROVISIONS

SECTION 1. Executive and judicial officers and members of the legislature, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the State of Nebraska, and will faithfully discharge the duties of ——— according to the best of my ability; and that at the election at which I was chosen to fill said office I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company, or person, or any promise of office for any official act or influence, (for any vote I may give or withhold on any bill, resolution, or appropriation.)" Any such officer or member of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office, and any person who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office, and thereafter be disqualified from holding any office of profit or trust in this State, unless he shall have been restored to civil rights.

SEC. 2. Any person who is in default as collector and custodian of public money or property shall not be eligible to any office of trust or profit under the constitution or laws of this State; nor shall any person convicted of felony be eligible to office unless he shall have been restored to civil rights.

SEC. 3. Drunkenness shall be cause of impeachment and removal from office.

### ARTICLE XV

#### AMENDMENTS

SECTION 1. Either branch of the legislature may propose amendments to this constitution, and if the same be agreed to by three-fifths

of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and published at least once each week in at least one newspaper in each county, where a newspaper is published, for three months immediately preceding the next election of senators and representatives, at which election the same shall be submitted to the electors for approval or rejection, and if a majority of the electors voting at such election adopt such amendments, the same shall become a part of this constitution. When more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. When three-fifths of the members elected to each branch of the legislature deem it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the legislature for or against a convention, and if a majority voting at said election vote for a convention, the legislature shall, at its next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid. No amendment or change of this constitution, agreed upon by such convention, shall take effect until the same has been submitted to the electors of the State, and adopted by a majority of those voting for and against the same.

## ARTICLE XVI

### SCHEDULE

SECTION 1. That no inconvenience may arise from the revisions and changes made in the constitution of this State, and to carry the same into effect, it is hereby ordained and declared that all laws in force at the time of the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals, or bodies-corporate shall continue to be as valid as if this constitution had not been adopted.

SEC. 2. All fines, taxes, penalties, and forfeitures owing to the State of Nebraska, or to the people thereof, under the present constitution and laws, shall inure to the use of the people of the State of Nebraska under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed upon the adoption of this constitution, to the people of the State of Nebraska, to the State of Nebraska, to any State or county officer, or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue; and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this State.

SEC. 4. All existing courts which are not in this constitution specifically enumerated, and concerning which no other provision is herein made, shall continue in existence, and exercise their present jurisdiction until otherwise provided by law.

SEC. 5. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective

commissions, elections, or appointments, unless by this constitution it is otherwise directed.

SEC. 6. The district attorneys now in office shall continue during their unexpired terms to hold and exercise the duties of their respective offices in the judicial districts herein created, in which they severally reside. In each of the remaining districts one such officer shall be elected at the first general election, and hold his office until the expiration of the terms of those now in office.

SEC. 7. This constitution shall be submitted to the people of the State of Nebraska, for adoption or rejection, at an election to be held on the second Tuesday of October, A. D. 1875, and there shall be separately submitted at the same time for adoption or rejection the independent article relating to "Seat of government," and the independent article "Allowing electors to express their preference for United States Senator."

SEC. 8. At said election the qualified electors shall vote at the usual places of voting, and the said election shall be conducted and the returns thereof made according to the laws now in force regulating general elections, except as herein otherwise provided.

SEC. 9. The secretary of state shall, at least twenty days before said election, cause to be delivered to the county clerk of each county blank poll-books, tally-lists, and forms of return, and twice as many of properly-prepared printed ballots for the said election as there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the secretary as is by law required to be audited and paid; and the several county clerks shall, at least five days before said election, cause to be distributed to the judges of election in each election-precinct in their respective counties, said blank poll-books, tally-lists, forms of return, and tickets.

SEC. 10. At the said election the ballots shall be of the following form:

For the new constitution.

Against the new constitution.

For the article relating to "Seat of government."

Against the article relating to "Seat of Government."

For the article "Allowing electors to express their preference for United States Senators."

Against the article "Allowing electors to express their preference for United States Senators."

SEC. 11. The returns of the whole vote cast, and the votes for the adoption or rejection of this constitution, and for or against the article respectively submitted, shall be made by the several county clerks to the secretary of state, within fourteen days after the election, and the returns of the said votes shall, within three days thereafter, be examined and canvassed by the president of this convention, the secretary of state, and the governor, or any two of them, and proclamation shall be made forthwith by the governor, or the president of this convention, of the result of the canvass.

SEC. 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this new constitution as was not separately submitted to be voted on by article shall be the supreme law of the State of Nebraska, on and after the first day of November, A. D. 1875. But if it shall appear that a majority of the votes polled were "against the new constitution," the whole thereof,

including the articles separately submitted, shall be null and void. If the votes "for the new constitution" shall adopt the same, and it shall appear that a majority of the votes polled are for the article relating to "the seat of government," said article shall be a part of the constitution of this State. If the votes "for the new constitution" shall adopt the same, and it shall appear that the majority of the votes polled are for the article "allowing electors to express their preference for United States Senator," said article shall be a part of the constitution of this State.

SEC. 13. The general election of this State shall be held on the Tuesday succeeding the first Monday of November of each year, except the first general election, which shall be on the second Tuesday in October, 1875. All State, district, county, precinct, and township officers, by the constitution or laws made elective by the people, except school-district officers, and municipal officers in cities, villages, and towns, shall be elected at a general election to be held as aforesaid. Judges of the supreme, district, and county courts, all elective county and precinct officers, and all other elective officers, the time for the election of whom is not herein otherwise provided university, shall continue in office until their successors shall be elected at the first general election, and thereafter at the general election next preceding the time of the termination of their respective terms of office: *Provided*, That the office of no county commissioner shall be vacated hereby.

SEC. 14. The terms of office of all State and county officers, or judges of the supreme, district, and county courts, and regents of the university, shall begin on the first Thursday after the first Tuesday in January next succeeding their election. The present State and county officers, members of the legislature, and regents of the university, shall continue in office until their successors shall be selected and qualified.

SEC. 15. The supreme, district, and county courts established by this constitution shall be the successors, respectively, of the supreme court, the district, and the probate courts, having jurisdiction under the existing constitution.

SEC. 16. The supreme, district, and probate courts now in existence shall continue, and the judges thereof shall exercise the power and retain their present jurisdiction until the courts provided for by this constitution shall be organized.

SEC. 17. All cases, matters, and proceedings pending undetermined in the several courts, and all records, judgments, orders, and decrees remaining therein, are hereby transferred to and shall be proceeded in and enforced in and by the successors thereof respectively.

SEC. 18. If this constitution be adopted, the existing constitution shall cease in all its provisions on the first day of November, A. D. 1875.

SEC. 19. The provisions of this constitution required to be executed prior to the adoption or rejection thereof shall take effect and be in force immediately.

SEC. 20. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 21. On the taking effect of this constitution, all State officers hereby continued in office shall, before proceeding in the further dis-



charge of their duties, take an oath or affirmation to support this constitution.

SEC. 22. The regents of the university shall be elected at the first general election under this constitution, and be classified by lot so that two shall hold their offices for the term of two years, two for the term of four years, and two for the term of six years.

SEC. 23. The present executive State officers shall continue in office until the executive State officers provided for in this constitution shall be elected and qualified.

SEC. 24. The returns of the whole vote cast for the judges of the supreme and district courts, district attorneys, and regents of the university, under the first general election, shall be made by the several county clerks to the secretary of state within fourteen days after the election; and the returns of the said votes shall, within three days thereafter, be examined and canvassed by the governor, secretary of state, and the president of this convention, or any two of them, and certificates of election shall forthwith be issued by the secretary of state to the persons found to be elected.

SEC. 25. The auditor shall draw the warrants of the State quarterly for the payment of the salaries of all officers under this constitution, whose compensation is not otherwise provided for, which shall be paid out of any funds not otherwise appropriated.

SEC. 26. Until otherwise provided by law, the judges of the district courts shall fix the time of holding courts in their respective districts.

SEC. 27. The members of the first legislature under this constitution shall be elected in the year 1876.

SEC. 28. This constitution shall be enrolled and deposited in the office of the secretary of state, and printed copies thereof shall be prefixed to the books containing the laws of the State, and all future editions thereof.

#### PROPOSITIONS SEPARATELY SUBMITTED

##### ALLOWING ELECTORS TO EXPRESS THEIR PREFERENCE FOR UNITED STATES SENATOR

The legislature may provide that at the general election immediately preceding the expiration of the term of a United States Senator from this State, the electors may, by ballot, express their preference for some person for the office of United States Senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for State officers.

##### SEAT OF GOVERNMENT

The seat of government of the State shall not be removed or relocated without the assent of a majority of the electors of the State, voting thereupon at a general election or elections, under such rules and regulations as to the number of elections and manner of voting, and places to be voted for, as may be prescribed by law: *Provided*, The question of removal may be submitted at such other general elections as may be provided by law.

Done in convention at the capitol in the city of Lincoln, on the twelfth day of June, in the year of our Lord one thousand eight

hundred and seventy-five, and of the Independence of the United States of America the ninety-ninth.

In witness whereof we have hereunto subscribed our names.

JOHN LEE WEBSTER, *President.*

Attest:

GUY A. BROWN, *Secretary.*

C. L. MATHER, *Assistant Secretary.*

#### AMENDMENT

#### ARTICLE III

SEC. 4. The terms of office of members of the legislature shall be two years, and they shall each receive pay at the rate of five dollars per day during their sitting, and ten cents for every mile they shall travel in going to and returning from the place of meeting of the legislature, on the most usual route; *Provided, however,* That they shall not receive pay for more than sixty days at any one sitting, nor more than one hundred days during their term. That neither members of the legislature nor employes shall receive any pay or perquisites other than their salary and mileage. Each session, except special sessions, shall not be less than sixty days. After the expiration of forty days of the session no bills nor joint resolutions of the nature of bills shall be introduced, unless the governor shall by special message call the attention of the legislature to the necessity of passing a law on the subject matter embraced in the message, and the introduction of bills shall be restricted thereto. [As amended at election in November, 1886. Laws, 1887, chap. 2.]



# NEVADA

For organic acts relating to Nevada in other parts of this work see:  
Treaty of Guadalupe Hidalgo, 1848 (California, p. 377).  
Territory of Utah, 1850 (Utah, p. 3687).

## THE TERRITORY OF NEVADA—1861 <sup>a</sup>

[THIRTY-SIXTH CONGRESS, SECOND SESSION]

An Act to organize the Territory of Nevada

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all that part of the territory of the United States, included within the following limits, to wit: Beginning at the point of intersection of the forty-second degree of north latitude with the thirty-ninth degree of longitude west from Washington; thence running south on the line of said thirty-ninth degree of west longitude, until it intersects the northern boundary-line of the Territory of New Mexico; thence due west to the dividing ridge, separating the waters of Carson Valley from those that flow into the Pacific; thence on said dividing ridge northwardly to the forty-first degree of north latitude; thence due north to the southern boundary-line of the State of Oregon; thence due east to the place of beginning, be, and the same is hereby, erected into a temporary government by the name of the Territory of Nevada: *Provided*, That so much of the territory within the present limits of the State of California shall not be included within this Territory until the State of California shall assent to the same by an act irrevocable without the consent of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Nevada, until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or to affect the authority of the Government of the United States to make any

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<sup>a</sup> For other statutes of an organic nature relating to Nevada see the act to prohibit slavery in, June 19, 1862; to extend the limits of, July 14, 1862; to disapprove of a Territorial act regulating corporations, March 3, 1863; to extend the boundaries of the State, May 5, 1866.

regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.<sup>a</sup>

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Nevada shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and at the same time two copies of the laws to the Speaker of the House of Representatives and the President of the Senate, for the use of Congress; and in case of the death, removal, or resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of thirteen members, which may be increased to twenty-six, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made as nearly equal as practicable among the several coun-

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<sup>a</sup> The State of California not having given its consent to the incorporation of a portion of its area into the limits of the Territory of Nevada, as was proposed in the first section of this act, Congress on the 14th of July, 1862, extended the eastern boundary of the Territory to the thirty-eighth degree west from Washington.



ties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, (Indians excepted) as nearly as may be; and the members of the council and of the house of representatives shall reside in and be inhabitants of the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken; and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected having the highest number of votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint, but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

SEC. 5. *And be it further enacted*, That every free white male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall any law be passed impairing the rights of private property; nor shall any discrimination be made in taxing different kinds of property; but all property subject to taxation shall be in proportion to the value of the property taxed.

SEC. 7. *And be it further enacted*, That all township, district, and county officers not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction; and authority for redress of all wrongs committed against the Constitution or laws of the United States, or of the Territory, affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken, to the Supreme Court of the United States, in the same manner and under the same regulations as from the

circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the United States in the District of Columbia, and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said Territory the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the secretary among the executive proceedings, and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterward the like oath or affirmation shall be taken, certified, and recorded in such manner

and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars; the secretary shall receive an annual salary of eighteen hundred dollars; the said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Nevada shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States, to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 14. *And be it further enacted*, That when the land in said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in the States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory and assign the judges who may be appointed for said Territory to the several districts; and also



appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Nevada as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor-general for Nevada, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses shall be the same as those of the surveyor-general of New Mexico, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

Approved, March 2, 1861.

### ENABLING ACT FOR NEVADA—1864 <sup>a</sup>

[THIRTY-EIGHTH CONGRESS, FIRST SESSION]

An Act to enable the people of Nevada to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the inhabitants of that portion of the Territory of Nevada included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name aforesaid, which said State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State of Nevada shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary-line of the State of California; thence in a northwesterly direction, along the said eastern boundary-line of the State of California, to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude and said eastern boundary-line of the State of California to the forty-second degree of north

<sup>a</sup> This act was so amended by an act of Congress approved May 21, 1864, as to provide for submitting the constitution of Nevada to the people on the first Wednesday of September, instead of the second Tuesday of October following. Additions were made to the area of Nevada, as described in this act, by an act of Congress approved May 5, 1866.



latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning.

SEC. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the general assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected, and they are authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as the said convention may prescribe; and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous, and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid, and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population, as near as may be, and said apportionment shall be made for said Territory by the governor, United States district attorney, and chief justice thereof, or any two of them, and the governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives as aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the house of representatives, and the number of members to said convention shall be the same as now constitute both branches of the legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted*, That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States. Whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: *Provided*, That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said convention shall provide, by an ordinance irrevocable, without the consent of the United States and the people of said State—

First. That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United

States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to the residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

SEC. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Nevada, in compliance with the provisions of this act, *that* said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution, and the returns of said election shall be made to the acting governor of the Territory, who, with the United States district attorney and chief justice of said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. *And be it further enacted*, That until the next general census shall be taken said State of Nevada shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

SEC. 7. *And be it further enacted*, That sections numbers sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of Congress, other lands, equivalent thereto, in legal subdivisions of not less than one quarter-section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

SEC. 8. *And be it further enacted*, That provided the State of Nevada shall be admitted into the Union, in accordance with the foregoing provisions of this act, *that* twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the legislature thereof, on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State, for the purpose of erecting public buildings at the capital of said State, for legislative and judicial purposes, in such manner as the legislature shall prescribe.

SEC. 9. *And be it further enacted*, That twenty other entire sections of land as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid,

SEC. 10. *And be it further enacted*, That five per centum of the proceeds of the sales of all public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, for the purpose of making and improving public roads, constructing ditches or canals, to effect a general system of irrigation of the agricultural land in the State, as the legislature shall direct.

SEC. 11. *And be it further enacted*, That from and after the admission of the said State of Nevada into the Union, in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said State as elsewhere within the United States, and said State shall constitute one judicial district, and be called the district of Nevada.

Approved, March 21, 1864.

## PROCLAMATION ANNOUNCING THE ADMISSION OF NEVADA—1864

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

Whereas the congress of the United States passed an act, which was approved on the 21st day of March last, entitled "An act to enable the people of Nevada to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states;"

And whereas the said constitution and state government have been formed, pursuant to the conditions prescribed by the fifth section of the act of congress aforesaid, and the certificate required by the said act, and also a copy of the constitution and ordinances, have been submitted to the President of the United States:

Now, therefore, be it known, that I, ABRAHAM LINCOLN, President of the United States, in accordance with the duty imposed upon me by the act of congress aforesaid, do hereby declare and proclaim that the said State of Nevada is admitted into the Union on an equal footing with the original states.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this thirty-first day of October, in the year of our Lord one thousand eight hundred and sixty-four, and of the Independence of the United States, the eighty-ninth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD,  
*Secretary of State.*

CONSTITUTION OF THE STATE OF NEVADA—1864 \* <sup>a</sup>

## PRELIMINARY ACTION

1. WHEREAS, The Act of Congress, approved March twenty-first, A. D. eighteen hundred and sixty-four, "To enable the people of the Territory of Nevada to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States," requires that the members of the Convention for framing said Constitution shall, after organization, on behalf of the people of said Territory, adopt the Constitution of the United States; therefore be it

2. *Resolved*, That the members of this Convention, elected by the authority of the aforesaid enabling Act of Congress, as assembled in Carson City, the Capital of said Territory of Nevada, and immediately subsequent to its organization, do adopt, on behalf of the people of said Territory, the Constitution of the United States.

## ORDINANCE

3. In obedience to the requirements of an Act of the Congress of the United States, approved March twenty-first, A. D. eighteen hundred and sixty-four, to enable the people of Nevada to form a Constitution and State Government, this Convention, elected and convened in obedience to said enabling Act, do ordain as follows, and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Nevada:

First—That there shall be in this State neither slavery nor involuntary servitude, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted.

Second—That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested, in person or property, on account of his or her mode of religious worship.

Third—That the people inhabiting said Territory do agree, and declare, that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United

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\* Verified from "The Constitution of the State of Nevada, as Amended up to and including February 11, 1889. Compiled by Eugene Howell, Secretary of State. Carson City, Nevada: State Printing Office, Andrew Maute, Superintendent, 1901."

## CERTIFICATE

STATE OF NEVADA, DEPARTMENT OF STATE, ss:

I, Eugene Howell, the duly elected, qualified and acting Secretary of State of the State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the existing Constitution of the State of Nevada, as the same appears in the enrolled Acts in my office.

In witness whereof, I have hereunto set my hand and affixed the Great Seal appears in the enrolled Acts in my office.

[SEAL]

EUGENE HOWELL, *Secretary of State*.

<sup>a</sup> As amended up to and including February 11, 1889.

States; and that lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the land belonging to residents thereof; and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

#### PREAMBLE

4. We, the people of the State of Nevada, grateful to Almighty God for our freedom, in order to secure its blessings, insure domestic tranquility, and form a more perfect government, do establish this constitution:

#### ARTICLE I

##### DECLARATION OF RIGHTS

SECTION 1. All men are, by nature, free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people; and they have the right to alter or reform the same whenever the public good may require it. But the paramount allegiance of every citizen is due to the Federal Government, in the exercise of all its constitutional powers, as the same have been, or may be, defined by the Supreme Court of the United States, and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith, or perform any act tending to impair, subvert, or resist the supreme authority of the Government of the United States. The Constitution of the United States confers full power on the Federal Government to maintain and perpetuate its existence, and whensoever any portion of the States, or people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

SEC. 3. The right of trial by jury shall be secured to all, and remain inviolate forever; but a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law; and in civil cases, if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as a verdict by the whole jury; *provided*, the Legislature, by a law passed by a two-thirds vote of all the members elected to each branch thereof, may require a unanimous verdict, notwithstanding this provision.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of his religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require its suspension.



SEC. 6. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted; nor shall witnesses be unreasonably detained.

SEC. 7. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great.

SEC. 8. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service, and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the Legislature), except on presentment or indictment of a grand jury; and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation having been first made or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

SEC. 9. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libels the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted or exonerated.

SEC. 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

SEC. 11. The military shall be subordinate to the civil power. No standing army shall be maintained by this State in time of peace, and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 12. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner to be prescribed by law.

SEC. 13. Representation shall be apportioned according to population.

SEC. 14. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for payment of any debts or liabilities hereafter contracted; and there shall be no imprisonment for debt, except in cases of fraud, libel, or slander, and no person shall be imprisoned for a militia fine in time of peace.

SEC. 15. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 16. Foreigners who are, or may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native-born citizens.

SEC. 17. Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State.

SEC. 18. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

SEC. 19. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. And no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people.

## ARTICLE II

### RIGHT OF SUFFRAGE

SECTION 1. Every male citizen of the United States (not laboring under the disabilities named in this Constitution) of the age of twenty-one years and upwards, who shall have actually, and not constructively, resided in the State six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people; and upon all questions submitted to the electors at such election; *provided*, that no person who has been or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no person who, after arriving at the age of eighteen years, shall have voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate States, or either of them, unless an amnesty be granted to such by the Federal Government, and no idiot or insane person, shall be entitled to the privilege of an elector.

[Amended by striking out the word *white* before the word *male*. Proposed and passed at the Eighth Session of the Legislature, January 15, 1877. Statutes of 1877, page 213; agreed to and passed at the Ninth Session of the Legislature, January 27, 1879, Statutes of 1879, page 149, and approved and ratified by the people at the general election of 1880.]

SEC. 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of the United States or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum, at public expense; nor while confined at any public prison.

SEC. 3. The right of suffrage shall be enjoyed by all persons, otherwise entitled to the same, who may be in the military or naval service of the United States; *provided*, the votes so cast shall be made to apply to the county and township of which said voters were *bona fide* residents at the time of their enlistment; *and provided further*, that the payment of a poll tax or a registration of such voters shall not be required as a condition to the right of voting. Provision shall be made by law regulating the manner of voting, holding elections, and making returns of such elections, wherein other provisions are not contained in this Constitution.

SEC. 4. During the day on which any general election shall be held in this State, no qualified elector shall be arrested by virtue of any civil process.

SEC. 5. All elections by the people shall be by ballot, and all elections by the Legislature, or by either branch thereof, shall be "*viva voce*."

SEC. 6. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for the ascertainment, by proper proofs, of the persons who shall be entitled to the right of suffrage as hereby established, to preserve the purity of elections, and to regulate the manner of holding and making returns of the same; and the Legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary as a test of electoral qualifications.

SEC. 7. The Legislature shall provide by law for the payment of an annual poll tax, of not less than two nor exceeding four dollars, from each male person resident in the State between the ages of twenty-one and sixty years (uncivilized American Indians excepted), one-half to be applied for State and one-half for county purposes; and the Legislature may, in its discretion, make such payment a condition to the right of voting.

SEC. 8. All persons qualified by law to vote for representatives to the General Assembly of the Territory of Nevada, on the twenty-first day of March, A. D. eighteen hundred and sixty-four, and all other persons who may be lawful voters in said Territory on the first Wednesday of September next following, shall be entitled to vote directly upon the question of adopting or rejecting this Constitution.

### ARTICLE III

#### DISTRIBUTION OF POWERS

SECTION 1. The powers of the Government of the State of Nevada shall be divided into three separate departments—the Legislative, the Executive and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

### ARTICLE IV

#### LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority of this State shall be vested in a Senate and Assembly, which shall be designated "The Legislature of the State of Nevada," and the sessions of such Legislature shall be held at the seat of Government of the State.

SEC. 2. The sessions of the Legislature shall be biennial, and shall commence on the *third* Monday of January next ensuing the election of members of the Assembly, unless the Governor of the State shall, in the *interim*, convene the Legislature by proclamation.

[Amended by changing *first* Monday to *third* Monday in January. Proposed and passed at the Twelfth Session of the Legislature, February 23, 1885, Statutes of 1885, page 151; agreed to and passed at the Thirteenth Session of the Legislature, March 3, 1887, Statutes of 1887, page 165, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 3. The members of the Assembly shall be chosen biennially by the qualified electors of their respective districts, on the Tuesday next after the first Monday in November, and their term of office shall be two years from the day next after their election.

SEC. 4. Senators shall be chosen at the same time and places as members of the Assembly, by the qualified electors of their respective districts, and their term of office shall be four years from the day next after their election.

SEC. 5. Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

SEC. 6. Each house shall judge of the qualifications, elections, and returns of its own members, choose its own officers (except the President of the Senate), determine the rules of its proceedings, and may punish its members for disorderly conduct, and with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 7. Either house, during the session, may punish, by imprisonment, any person, not a member, who shall have been guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 8. No Senator or member of Assembly shall, during the term for which he shall have been elected, nor for one year thereafter, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such office as may be filled by elections by the people.

SEC. 9. No person holding any lucrative office under the Government of the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that Postmasters whose compensation does not exceed five hundred dollars per annum, or Commissioners of Deeds, shall not be deemed as holding a lucrative office.

SEC. 10. Any person who shall be convicted of the embezzlement or defalcation of the public funds of this State, or who may be convicted of having given or offered a bribe to procure his election or appointment to office, or received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of profit or trust in this State. And the Legislature shall, as soon as practicable, provide by law for the punishment of such defalcation, bribery, or embezzlement as a felony.

SEC. 11. Members of the Legislature shall be privileged from arrest on civil process during the session of the Legislature, and for fifteen days next before the commencement of each session.

SEC. 12. When vacancies occur in either house, the Governor shall issue writs of election to fill such vacancy.

SEC. 13. A majority of all the members elected to each house shall constitute a quorum to transact business, but a smaller number may adjourn, from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 14. Each house shall keep a Journal of its own proceedings, which shall be published, and the yeas and nays of the members of

either house, on any question, shall, at the desire of any three members present, be entered on the Journal.

SEC. 15. The doors of each house shall be kept open during its session, except the Senate while sitting in executive session, and neither shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be holding their sessions.

SEC. 16. Any bill may originate in either house of the Legislature, and all bills passed by one may be amended in the other.

SEC. 17. Each law enacted by the Legislature shall embrace but one subject, and matter properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be revised or amended by reference to its title only; but, in such case, the Act as revised, or section as amended, shall be reenacted and published at length.

SEC. 18. Every bill shall be read by sections on three several days in each house, unless, in case of emergency, two-thirds of the house where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with, and the vote on the final passage of every bill or joint resolution shall be taken by yeas and nays, to be entered on the Journals of each house; and a majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses, and by the Secretary of the Senate and Clerk of the Assembly.

SEC. 19. No money shall be drawn from the treasury but in consequence of appropriations made by law. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the Legislature.

SEC. 20. The Legislature shall not pass local or special laws in any of the following enumerated cases—that is to say: Regulating the jurisdiction and duties of the Justices of the Peace and of Constables; for the punishment of crimes and misdemeanors; regulating the practice of courts of justice; providing for changing the venue in civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town plots, streets, alleys and public squares; summoning and impaneling grand and petit juries, and providing for their compensation; regulating county and township business; regulating the election of county and township officers; for the assessment and collection of taxes for State, county and township purposes; providing for opening and conducting elections of State, county and township officers, and designating the places of voting; providing for the sale of real estate or personal property belonging to minors or other persons under legal disabilities; giving effect to invalid deeds, wills or other instruments; refunding money paid into the State Treasury, or into the treasury of any county; releasing the indebtedness, liability or obligation of any corporation, association or person to the State, or to any county, town or city of this State. But nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads,



ditch, flume and tunnel companies incorporated under the laws of this State or doing business therein.

[As amended. Proposed and passed at the Twelfth Session of the Legislature, February 23, 1885, Statutes of 1885, page 152; agreed to and passed at the Thirteenth Session of the Legislature, March 3, 1887, Statutes of 1887, page 166, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 21. In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 22. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this Constitution.

SEC. 23. The enacting clause of every law shall be as follows: "The People of the State of Nevada, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

SEC. 24. No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.

SEC. 25. The Legislature shall establish a system of county and township government, which shall be uniform throughout the State.

SEC. 26. The Legislature shall provide by law for the election of a Board of County Commissioners in each county, and such County Commissioners shall, jointly and individually, perform such duties as may be prescribed by law.

SEC. 27. Laws shall be made to exclude from serving on juries all persons not qualified electors of the State, and all persons who shall have been convicted of bribery, perjury, forgery, larceny, or other high crimes, unless restored to civil rights; and laws shall be passed regulating elections, and prohibiting under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 28. No money shall be drawn from the State Treasury as salary or compensation to any officer or employee of the Legislature, or either branch thereof, except in cases where such salary or compensation has been fixed by a law in force prior to the election or appointment of such officer or employee, and the salary or compensation so fixed shall neither be increased nor diminished so as to apply to any officer or employee of the Legislature, or either branch thereof, at such session; *provided*, that this restriction shall not apply to the first session of the Legislature.

SEC. 29. The first regular session of the Legislature under this Constitution may extend to ninety days, but no subsequent regular session shall exceed sixty days, nor any special session convened by the Governor exceed twenty days.

SEC. 30. A homestead as provided by law, shall be exempt from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife when that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon; *provided*, the provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife, and

laws shall be enacted providing for the recording of such homestead within the county in which the same shall be situated.

SEC. 31. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, shall be her separate property; and laws shall be passed, more clearly defining the rights of the wife in relation, as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 32. The Legislature shall have power to increase, diminish, consolidate or abolish the following county officers: County Clerks, County Recorders, Auditors, Sheriffs, District Attorneys, County Surveyors, Public Administrators and Superintendents of Schools. The Legislature shall provide for their election by the people, and fix by law their duties and compensation. County Clerks shall be *ex officio* Clerks of the Courts of Record and of the Boards of County Commissioners in and for their respective counties.

[As amended. Proposed and passed at the Thirteenth Session of the Legislature, March 3, 1887, Statutes of 1887, page 161; agreed to and passed at the Fourteenth Session of the Legislature, January 17, 1889, Statutes of 1889, page 151, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 33. The members of the Legislature shall receive for their services a compensation to be fixed by law, and paid out of the public treasury; but no increase of such compensation shall take effect during the term for which the members of either house shall have been elected; *provided*, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur for postage, express charges, newspapers and stationery, not exceeding the sum of sixty dollars for any general or special session, to each member; *and furthermore provided*, that the Speaker of the Assembly, and Lieutenant-Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers, receive an additional allowance of two dollars per diem.

SEC. 34. In all elections for United States Senators, such elections shall be held in joint convention of both houses of the Legislature. It shall be the duty of the Legislature which convenes next preceding the expiration of the term of such Senator, to elect his successor. If a vacancy in such Senatorial representation from any cause occur, it shall be the duty of the Legislature then in session, or at the succeeding session thereof, to supply such vacancy. If the Legislature shall, at any time, as herein provided, fail to unite in a joint convention within twenty days after the commencement of the session of the Legislature for the election [of] such Senator, it shall be the duty of the Governor, by proclamation, to convene the two houses of the Legislature in joint convention within not less than five days, nor exceeding ten days, from the publication of his proclamation, and the joint convention when so assembled shall proceed to elect the Senator as herein provided.

SEC. 35. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which house shall cause such objec-

tions to be entered upon its Journal, and proceed to reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within five days after it shall have been presented to him (Sundays excepted), exclusive of the day on which he received it, the same shall be a law in like manner as if he had signed it, unless the Legislature, by its final adjournment, prevent such return, in which case it shall be a law, unless the Governor, within ten days next after the adjournment (Sundays excepted), shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the Legislature at its next session, in like manner as if it had been returned by the Governor; and if the same shall receive the vote of two-thirds of the members elected to each branch of the Legislature, upon a vote taken by yeas and nays, to be entered upon the Journals of each house, it shall become a law.

## ARTICLE V

### EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be Governor of the State of Nevada.

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Legislature, and shall hold his office for four years from the time of his installation, and until his successor shall be qualified.

SEC. 3. No person shall be eligible to the office of Governor who is not a qualified elector, and who, at the time of such election, has not attained the age of twenty-five years, and who, except at the first election under this Constitution, shall not have been a citizen resident of this State for two years next preceding the election.

SEC. 4. The returns of every election for Governor, and other State officers voted for at the general election, shall be sealed up and transmitted to the seat of government, directed to the Secretary of State; and on the third Monday of December succeeding such election, the Chief Justice of the Supreme Court, and the Associate Justices, or a majority thereof, shall meet at the office of the Secretary of State, and open and canvass the election returns for Governor and all other State officers, and forthwith declare the result and publish the names of the persons elected. The persons having the highest number of votes for the respective offices shall be declared elected, but in case any two or more have an equal and the highest number of votes for the same office, the Legislature shall, by joint vote of both houses, elect one of said persons to fill said office.

SEC. 5. The Governor shall be Commander-in-Chief of the military forces of this State, except when they shall be called into the service of the United States.

SEC. 6. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election and qualification of the person elected to such office.

SEC. 9. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall state to both houses, when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business except that for which they were especially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in session.

SEC. 10. He shall communicate by message to the Legislature at every regular session the condition of the State, and recommend such measures as he may deem expedient.

SEC. 11. In case of a disagreement between the two houses, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature.

SEC. 12. No person shall while holding any office under the United States Government hold the office of Governor, except as herein expressly provided.

SEC. 13. The Governor shall have the power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days dating from the time of conviction, for all offenses, except in cases of impeachment. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. And if the Legislature shall fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the Governor by his order may direct. The Governor shall communicate to the Legislature, at the beginning of every session, every case of fine or forfeiture remitted, or reprieve, pardon or commutation granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, and the date of the remission, commutation, pardon or reprieve.

SEC. 14. The Governor, Justices of the Supreme Court and Attorney-General, or a major part of them, of whom the Governor shall be one, may, upon such conditions and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments and grant pardons, after convictions, in all cases, except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

SEC. 15. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of Nevada."

SEC. 16. All grants and commissions shall be in the name and by the authority of the State of Nevada, sealed with the Great Seal of the State, signed by the Governor and countersigned by the Secretary of State.

SEC. 17. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner as the Governor, and his term of office and his eligibility shall also be the same. He shall be President of the Senate, but shall only have a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of the office, or be absent from the State, the President *pro tempore* of the Senate shall act as Governor until the vacancy be filled or the disability cease.

SEC. 18. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the duties of the said office, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, and at the head of any military force thereof, he shall continue Commander-in-Chief of the military forces of the State.

SEC. 19. A Secretary of State, a Treasurer, a Controller, a Surveyor-General, and an Attorney-General, shall be elected at the same time and places, and in the same manner as the Governor. The term of office of each shall be the same as is prescribed for the Governor. Any elector shall be eligible to either of said offices.

SEC. 20. The Secretary of State shall keep a true record of the official acts of the legislative and executive departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature.

SEC. 21. The Governor, Secretary of State and Attorney-General shall constitute a Board of State Prison Commissioners, which Board shall have such supervision of all matters connected with the State Prison as may be provided by law. They shall also constitute a Board of Examiners, with power to examine all claims against the State (except salaries or compensation of officers fixed by law), and perform such other duties as may be prescribed by law, and no claim against the State (except salaries or compensation of officers fixed by law) shall be passed upon by the Legislature without having been considered and acted upon by said Board of Examiners.

SEC. 22. The Secretary of State, State Treasurer, State Controller, Surveyor-General, Attorney-General and Superintendent of Public Instruction shall perform such other duties as may be prescribed by law.

## ARTICLE VI

### JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in a Supreme Court, District Courts, and in Justices of the Peace. The Legislature may also establish courts for municipal purposes only, in incorporated cities and towns.

SEC. 2. The Supreme Court shall consist of a Chief Justice and two Associate Justices, a majority of whom shall constitute a quorum; *provided*, that the Legislature, by a majority of all the members elected to each branch thereof, may provide for the election of two additional Associate Justices, and if so increased three shall consti-



tute a quorum. The concurrence of a majority of the whole Court shall be necessary to render a decision.

SEC. 3. The Justices of the Supreme Court shall be elected by the qualified electors of the State at the general election, and shall hold office for the term of six years from and including the first Monday of January next succeeding their election; *provided*, that there shall be elected, at the first election under this Constitution, three Justices of the Supreme Court, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and sixty-four, and continue in office thereafter two, four and six years, respectively, from and including the first Monday of January next succeeding their election. They shall meet as soon as practicable after their election and qualification, and at their first meeting shall determine, by lot, the term of office each shall fill, and the Justice drawing the shortest term shall be Chief Justice, and after the expiration of his term, the one having the next shortest term shall be Chief Justice, after which the senior Justice in commission shall be Chief Justice, and in case the commission of any two or more of said Justices shall bear the same date, they shall determine by lot who shall be Chief Justice.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity; also, in all cases at law in which is involved the title or right of possession to, or the possession of, real estate or mining claims, or the legality of any tax, impost, assessment, toll or municipal fine, or in which the demand (exclusive of interest) or the value of the property in controversy exceeds three hundred dollars; also, in all other civil cases not included in the general subdivisions of law and equity, and also on questions of law alone in all criminal cases in which the offense charged amounts to felony. The Court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto* and *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of *habeas corpus* to any part of the State upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any District Court in the State, or before any Judge of said Courts.

SEC. 5. The State is hereby divided into nine judicial districts, of which the county of Storey shall constitute the first; the county of Ormsby the second; the county of Lyon the third; the county of Washoe the fourth; the counties of Nye and Churchill the fifth; the county of Humboldt the sixth; the county of Lander the seventh; the county of Douglas the eighth, and the county of Esmeralda the ninth. The county of Roop shall be attached to the county of Washoe for judicial purposes, until otherwise provided by law. The Legislature may, however, provide by law for an alteration in the boundaries or divisions of the districts herein prescribed, and also for increasing or diminishing the number of the judicial districts and Judges therein. But no such change shall take effect, except in case of a vacancy, or the expiration of the term of an incumbent of the office. At the first general election under this Constitution, there shall be elected in each of the respective districts (except as in this section hereafter otherwise provided) one District Judge, who shall hold office from and including the first Monday of December, A. D. eighteen hundred and

sixty-four, and until the first Monday of January, in the year eighteen hundred and sixty-seven. After the said first election, there shall be elected at the general election which immediately precedes the expiration of the term of his predecessor, one District Judge in each of the respective judicial districts (except in the first district, as in this section hereinafter provided). The District Judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of four years (excepting those elected at said first election) from and including the first Monday in January next succeeding their election and qualification; *provided*, that the First Judicial District shall be entitled to, and shall have, three District Judges, who shall possess coextensive and concurrent jurisdiction, and who shall be elected at the same times, in the same manner, and shall hold office for the like terms as herein prescribed in relation to the Judges in other judicial districts. Any one of said Judges may preside on the empaneling of grand juries, and the presentment and trial on indictments, under such rules and regulations as may be prescribed by law.

SEC. 6. The District Courts in the several judicial districts of this State shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title or the right of possession to, or the possession of, real property or mining claims, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand (exclusive of interest) or the value of the property in controversy exceeds three hundred dollars; also, in all cases relating to the estates of deceased persons, and the persons and estates of minors and insane persons, and of the action of forcible entry and unlawful detainer; and also in all criminal cases not otherwise provided for by law; they shall also have final appellate jurisdiction in cases arising in Justices Courts, and such other inferior tribunals as may be established by law. The District Courts and the Judges thereof shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction; and also shall have power to issue writs of *habeas corpus* on petition by, or on behalf of, any person held in actual custody in their respective districts.

SEC. 7. The times of holding the Supreme Court and District Courts shall be as fixed by law. The terms of the Supreme Court shall be held at the seat of government; and the terms of the District Courts shall be held at the county seats of their respective counties; *provided*, that in case any county shall be hereafter divided into two or more districts, the Legislature may by law designate the places of holding courts in any such districts.

SEC. 8. The Legislature shall determine the number of Justices of the Peace to be elected in each city and township of the State, and shall fix, by law, their powers, duties and responsibilities; *provided*, that such Justices' Courts shall not have jurisdiction of the following cases, viz: First—Of cases in which the matter in dispute is a money demand or personal property, and the amount of the demand (exclusive of interest) or the value of the property exceeds three hundred dollars. Second—Of cases wherein the title to real estate or mining claims, or questions of boundaries to land, is or may be involved; or of cases that in any manner shall conflict with the jurisdiction of the several courts of record in this State; *and provided further*, that

Justices' Courts shall have such criminal jurisdiction as may be prescribed by law; and the Legislature may confer upon said courts jurisdiction concurrent with the District Courts, of actions to enforce mechanics' liens wherein the amount (exclusive of interest) does not exceed three hundred dollars; and also of actions for the possession of lands and tenements, where the relation of landlord and tenant exists, or when such possession has been unlawfully or fraudulently obtained or withheld. The Legislature shall also prescribe by law the manner and determine the cases in which appeals may be taken from Justices and other courts. The Supreme Court, the District Courts, and such other courts as the Legislature shall designate, shall be courts of record.

SEC. 9. Provision shall be made by law prescribing the powers, duties and responsibilities of any municipal court that may be established in pursuance of section one of this article; and also fixing by law the jurisdiction of said court, so as not to conflict with that of the several courts of record.

SEC. 10. No judicial officer, except Justices of the Peace and City Recorders, shall receive to his own use any fees or perquisites of office.

SEC. 11. The Justices of the Supreme Court and the District Judges shall be ineligible to any office, other than a judicial office, during the term for which they shall have been elected; and all elections or appointments of any such Judges by the people, Legislature or otherwise, during said period, to any office other than judicial, shall be void.

SEC. 12. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

SEC. 13. The style of all process shall be "The State of Nevada," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 14. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 15. The Justices of the Supreme Court and District Judges shall each receive quarterly for their services a compensation to be fixed by law, and which shall not be increased or diminished during the term for which they shall have been elected, unless in case a vacancy occurs, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment; and provision shall be made by law for setting apart from each year's revenue a sufficient amount of money to pay such compensation; *provided*, that District Judges shall be paid out of the county treasuries of the counties composing their respective districts.

SEC. 16. The Legislature at its first session, and from time to time thereafter, shall provide by law that upon the institution of each civil action and other proceedings, and also upon the perfecting of an appeal in any civil action or proceeding in the several courts of record in this State, a special court fee or tax shall be advanced to the Clerks of said courts, respectively, by the party or parties bringing such action or proceeding, or taking such appeal; and the money so paid in shall be accounted for by such Clerks, and applied towards the payment of the compensation of the Judges of said courts, as shall be directed by law.

SEC. 17. The Legislature shall have no power to grant leave of

absence to a judicial officer, and any such officer who shall absent himself from the State for more than ninety consecutive days, shall be deemed to have vacated his office.

SEC. 18. No judicial officer shall be superseded, nor shall the organization of the several courts of the Territory of Nevada be changed, until the election and qualification of the several officers provided for in this article.

## ARTICLE VII

### IMPEACHMENT AND REMOVAL FROM OFFICE

SECTION 1. The Assembly shall have the sole power of impeaching. The concurrence of a majority of all the members elected shall be necessary to an impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. The Chief Justice of the Supreme Court shall preside over the Senate while sitting to try the Governor or Lieutenant-Governor upon impeachment. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

SEC. 2. The Governor, and other State and judicial officers, except Justices of the Peace, shall be liable to impeachment for misdemeanor or malfeasance in office; but judgment in such case shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 3. For any reasonable cause, to be entered on the Journals of each house, which may or may not be sufficient grounds for impeachment, the Chief Justice and Associate Justices of the Supreme Court and Judges of the District Courts shall be removed from office on the vote of two-thirds of the members elected to each branch of the Legislature, and the Justice or Judge complained of shall be served with a copy of the complaint against him, and shall have an opportunity of being heard in person, or by counsel, in his defense; *provided*, that no member of either branch of the Legislature shall be eligible to fill the vacancy occasioned by such removal.

SEC. 4. Provision shall be made by law for the removal from office of any civil officer other than those in this article previously specified, for malfeasance or nonfeasance in the performance of his duties.

## ARTICLE VIII

### MUNICIPAL AND OTHER CORPORATIONS

SECTION 1. The Legislature shall pass no special Act in any matter relating to corporate powers except for municipal purposes; but corporations may be formed under general laws, and all such laws may, from time to time, be altered or repealed.

SEC. 2. All real property and possessory rights to the same, as well as personal property in this State, belonging to corporations now existing or hereafter created, shall be subject to taxation the same as property of individuals; *provided*, that the property of corporations

formed for municipal, charitable, religious, or educational purposes may be exempted by law.

SEC. 3. Dues from corporations shall be secured by such means as may be prescribed by law; *provided*, that corporators in corporations formed under the laws of this State shall not be individually liable for the debts or liabilities of such corporation.

SEC. 4. Corporations created by or under the laws of the Territory of Nevada shall be subject to the provisions of such laws until the Legislature shall pass laws regulating the same, in pursuance of the provisions of this Constitution.

SEC. 5. Corporations may sue and be sued in all courts, in like manner as individuals.

SEC. 6. No bank notes or paper of any kind shall ever be permitted to circulate as money in this State, except the federal currency and the notes of banks authorized under the laws of Congress.

SEC. 7. No right of way shall be appropriated to the use of any corporation until full compensation be first made or secured therefor.

SEC. 8. The Legislature shall provide for the organization of cities and towns by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, except for procuring supplies of water.

SEC. 9. The State shall not donate or loan money or its credit, subscribe to or be interested in the stock of any company, association, or corporation, except corporations formed for educational, or charitable purposes.

SEC. 10. No county, city, town, or other municipal corporation shall become a stockholder in any joint stock company, corporation, or association whatever, or loan its credit in aid of any such company, corporation, or association, except railroad corporations, companies, or associations.

## ARTICLE IX

### FINANCE AND STATE DEBT

SECTION 1. The fiscal year shall commence on the first day of January in each year.

SEC. 2. The Legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year or two years.

SEC. 3. For the purpose of enabling the State to transact its business upon a cash basis from its organization, the State may contract public debts; but such debts shall never, in the aggregate, exclusive of interest, exceed the sum of three hundred thousand dollars, except for the purpose of defraying extraordinary expenses, as hereinafter mentioned. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein; and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within twenty years from the passage of such law, and shall specially appropriate the proceeds of said



taxes to the payment of said principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished until the principal and interest of said debts shall have been wholly paid. Every contract of indebtedness entered into or assumed by, or on behalf of, the State, when all its debts and liabilities amount to said sum before mentioned, shall be void and of no effect, except in cases of money borrowed to repel invasion, suppress insurrection, defend the State in time of war, or, if hostilities be threatened, provide for the public defense.

SEC. 4. The State shall never assume the debts of any county, town, city, or other corporation whatever, unless such debts have been created to repel invasion, suppress insurrection, or to provide for the public defense.

## ARTICLE X

### TAXATION

SECTION 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, excepting mines and mining claims, the proceeds of which alone shall be taxed, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.

## ARTICLE XI

### EDUCATION

SECTION 1. The Legislature shall encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural and moral improvements, and also provide for the election by the people, at the general election, of a Superintendent of Public Instruction, whose terms of office shall be two years from the first Monday of January, A. D. eighteen hundred and sixty-five, and until the election and the qualification of his successor, and whose duties shall be prescribed by law.

SEC. 2. The Legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year; and any school district neglecting to establish and maintain such a school, or which shall allow instructions of a sectarian character therein, may be deprived of its proportion of the interest of the Public School Fund during such neglect or infraction; and the Legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public school.

SEC. 3. All lands, including the sixteenth and thirty-sixth sections in any township donated for the benefit of public schools in the Act of the Thirty-eighth Congress, to enable the people of Nevada Territory to form a State Government, the thirty thousand acres of public lands granted by an Act of Congress, approved July second, A. D. eighteen hundred and sixty-two, for each Senator and Representative in Congress, and all proceeds of lands that have been or may hereafter be

granted or appropriated by the United States to this State, and also the five hundred thousand acres of land granted to the new States under the Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. eighteen hundred and forty-one; *provided*, that Congress may provision for or authorize such diversion to be made for the purpose herein contained; all estates that may escheat to the State; all of such per centum as may be granted by Congress on the sale of lands; all fines collected under the penal laws of the State; all property given or bequeathed to the State for educational purposes, and all proceeds derived from any or all of said sources shall be and the same are hereby solemnly pledged for educational purposes and shall not be transferred to any other fund for other uses; and the interest thereon shall, from time to time, be apportioned among the several counties as the Legislature may provide by law; and the Legislature shall provide for the sale of floating land warrants to cover the aforesaid lands, and for the investment of all proceeds derived from any of the above-mentioned sources, in United States bonds, or the bonds of this State, or the bonds of other States of the Union; *provided*, that the interest only of the aforesaid proceeds shall be used for educational purposes, and any surplus interest shall be added to the principal sum; *and provided further*, that such portions of said interest as may be necessary may be appropriated for the support of the State University. X

[As amended. Proposed and passed at the Twelfth Session of the Legislature, February 25, 1885, Statutes of 1885, page 160; agreed to and passed at the Thirteenth Session of the Legislature March 3, 1887, Statutes of 1887, page 168, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 4. The Legislature shall provide for the establishment of a State University, which shall embrace departments for agriculture, mechanic arts and mining, to be controlled by a Board of Regents, whose duties shall be prescribed by law.

SEC. 5. The Legislature shall have power to establish normal schools, and such different grades of schools, from the primary department to the University, as in their discretion they may deem necessary, and all professors in said University, or teachers in said schools, of whatever grade, shall be required to take and subscribe to the oath as prescribed in Article XV of this Constitution. No professor or teacher who fails to comply with the provisions of any law framed in accordance with the provisions of this section shall be entitled to receive any portion of the public moneys set apart for school purposes.

SEC. 6. The Legislature shall provide a special tax, which shall not exceed two mills on the dollar of all taxable property in the State, in addition to the other means provided for the support and maintenance of said University and common schools.

[As amended. Proposed and passed at the Twelfth Session of the Legislature, passed February 25, 1885, Statutes of 1885, page 161; agreed to and passed at the Thirteenth Session, March 3, 1887, Statutes of 1887, page 169, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 7. The Governor, Secretary of State, and Superintendent of Public Instruction shall, for the first four years, and until their successors are elected and qualified, constitute a Board of Regents, to

control and manage the affairs of the University and the funds of the same, under such regulations as may be provided by law. But the Legislature shall at its regular session next preceding the expiration of the term of office of said Board or Regents, provide for the election of a new Board of Regents, and define their duties.

SEC. 8. The Board of Regents shall, form the interest accruing from the first funds which come under their control, immediately organize and maintain the said mining department in such manner as to make it most effective and useful; *provided*, that all the proceeds of the public lands donated by Act of Congress approved July second, A. D. eighteen hundred and sixty-two, for a college for the benefit of agriculture, the mechanic arts, and including military tactics, shall be invested by the said Board of Regents in a separate fund, to be appropriated exclusively for the benefit of the first named departments to the University, as set forth in section four above; and the Legislature shall provide that if, through neglect or any other contingency, any portion of the fund so set apart shall be lost or misappropriated, the State of Nevada shall replace said amount so lost or misappropriated in said fund, so that the principal of said fund shall remain forever undiminished.

SEC. 9. No sectarian instruction shall be imparted or tolerated in any school or University that may be established under this Constitution.

SEC. 10. No public funds of any kind or character whatever, State, county, or municipal, shall be used for sectarian purposes.

[Section 10 was added to Article XI by amendment. Proposed and passed at the Eighth Session of the Legislature, February 27, 1877, Statutes of 1877, page 221; agreed to and passed at the Ninth Session of the Legislature, January 27, 1879, Statutes of 1879, page 149, and approved and ratified by the people at the general election of 1880.]

## ARTICLE XII

### MILITIA

SECTION 1. The Legislature shall provide by law for organizing and disciplining the militia of this State, for the effectual encouragement of volunteer corps, and the safe keeping of the public arms.

SEC. 2. The Governor shall have power to call out the militia to execute the laws of the State, or to suppress insurrection or repel invasion.

## ARTICLE XIII

### PUBLIC INSTITUTIONS

SECTION 1. Institutions for the benefit of the insane, blind and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

SEC. 2. A State Prison shall be established and maintained in such manner as may be prescribed by law; and provision may be made by law for the establishment and maintenance of a House of Refuge for Juvenile Offenders.

SEC. 3. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age and infirmity, or misfortunes, may have claim upon the sympathy and aid of society.

## ARTICLE XIV

## BOUNDARY

SECTION 1. The boundary of the State of Nevada shall be as follows: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary line of the State of California; thence in a northwesterly direction along said eastern boundary line of the State of California to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude and said eastern boundary line of the State of California to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning. And whensoever Congress shall authorize the addition to the Territory or State of Nevada of any portion of the territory on the easterly border of the foregoing defined limits, not exceeding in extent one degree of longitude, the same shall thereupon be embraced within and become a part of this State. *And furthermore provided,* that all such territory lying west of and adjoining the boundary line herein prescribed, which the State of California may relinquish to the Territory or State of Nevada, shall thereupon be embraced within and constitute a part of this State.

## ARTICLE XV

## MISCELLANEOUS PROVISIONS

SECTION 1. The Seat of Government shall be at Carson City, but no appropriation for the erection or purchase of Capitol buildings shall be made during the next three years.

SEC. 2. Members of the Legislature, and all officers, executive, judicial and ministerial, shall, before they enter upon the duties of their respective offices, take and subscribe to the following oath or affirmation:

“ I, ———, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution or law of any State, convention or Legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge and purpose, without any mental reservation or evasion whatsoever. And I do further solemnly swear (or affirm) that I have not fought a duel, nor sent or accepted a challenge to fight a duel, nor been a second to either party, nor in any manner aided or assisted in such duel; nor been knowingly the bearer of such challenge or acceptance, since the adoption of the Constitution of the State of Nevada, and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel during my

continuance in office. And further, that I will well and faithfully perform all the duties of the office of ———, on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury."

SEC. 3. No person shall be eligible to any office who is not a qualified elector under this Constitution. No person who, while a citizen of this State, has, since the adoption of this Constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or who has acted as second, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to hold any office of honor, profit or trust, or enjoy the right of suffrage under this Constitution. The Legislature shall provide by law for giving force and effect to the foregoing provisions of this section; *provided*, that females over the age of twenty-one years, who have resided in this State one year, and in the county or district six months next preceding any election to fill either of said offices, shall be eligible to the offices of Superintendent of Public Schools and School Trustee.

[As amended. Proposed and passed at the Thirteenth Session of the Legislature, March 3, 1887, Statutes of 1887, page 162; agreed to and passed at the Fourteenth Session of the Legislature, January 17, 1889, Statutes of 1889, page 151, and approved and ratified by the people at a special election held February 11, 1889.]

SEC. 4. No perpetuities shall be allowed except for eleemosynary purposes.

SEC. 5. The general election shall be held on the Tuesday next after the first Monday of November.

SEC. 6. The aggregate number of members of both branches of the Legislature shall never exceed seventy-five.

SEC. 7. All county officers shall hold their offices at the county seat of their respective counties.

SEC. 8. The Legislature shall provide for the speedy publication of all statute laws of a general nature, and such decisions of the Supreme Court as it may deem expedient; and all laws and judicial decisions shall be free for publication by any person; *provided*, that no judgment of the Supreme Court shall take effect and be operative until the opinion of the Court in such case shall be filed with the Clerk of said Court.

SEC. 9. The Legislature may, at any time, provide by law for increasing or diminishing the salaries or compensation of any of the officers whose salaries or compensation is fixed in this Constitution; *provided*, no such change of salary or compensation shall apply to any officer during the term for which he may have been elected.

SEC. 10. All officers whose election or appointment is not otherwise provided for shall be chosen or appointed as may be prescribed by law.

SEC. 11. The tenure of any office not herein provided for may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment; but the Legislature shall not create any office, the tenure of which shall be longer than four years, except as herein otherwise provided in this Constitution.

SEC. 12. The Governor, Secretary of State, State Treasurer, State



Controller, and Clerk of the Supreme Court shall keep their respective offices at the seat of government.

SEC. 13. The enumeration of the inhabitants of this State shall be taken, under the direction of the Legislature, if deemed necessary, in A. D. eighteen hundred and sixty-five, A. D. eighteen hundred and sixty-seven, A. D. eighteen hundred and seventy-five, and every ten years thereafter; and these enumerations, together with the census that may be taken under the direction of the Congress of the United States in A. D. eighteen hundred and seventy, and every subsequent ten years, shall serve as the basis of representation in both houses of the Legislature.

SEC. 14. A plurality of votes given at an election by the people shall constitute a choice, where not otherwise provided by this Constitution.

## ARTICLE XVI

### AMENDMENTS

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly; and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective Journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice. And if, in the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become a part of the Constitution.

SEC. 2. If at any time the Legislature, by a vote of two-thirds of the members elected to each house, shall determine that it is necessary to cause a revision of this entire Constitution, they shall recommend to the electors, at the next election for members of the Legislature, to vote for or against a convention, and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the Legislature shall, at its next session, provide by law for calling a convention to be holden within six months after the passage of such law; and such convention shall consist of a number of members not less than that of both branches of the Legislature. In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

## ARTICLE XVII

### SCHEDULE

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State Government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts,

as well of individuals as of bodies corporate, including counties, towns and cities, shall continue as if no change had taken place; and all process which may issue under the authority of the Territory of Nevada, previous to its admission into the Union as one of the United States, shall be as valid as if issued in the name of the State of Nevada.

SEC. 2. All laws of the Territory of Nevada, in force at the time of the admission of this State, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the Legislature.

SEC. 3. All fines, penalties and forfeitures accruing to the Territory of Nevada, or to the people of the United States in the Territory of Nevada, shall inure to the State of Nevada.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to, and may be prosecuted in the name of the State, and all bonds executed to the Governor of the Territory, or to any other officer or Court in his or their official capacity, or to the people of the United States in the Territory of Nevada, shall pass to the Governor, or other officer, or court, and his or their successors in office, for the uses therein respectively expressed, and may be sued on, and recovery had accordingly; and all property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, claims, and debts of whatsoever description, and all records and public archives of the Territory of Nevada, shall issue to and vest in the State of Nevada, and may be sued for and recovered in the same manner and to the same extent by the State of Nevada, as the same could have been by the Territory of Nevada. All criminal prosecutions and penal actions, which may have arisen, or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Nevada, before the change from a Territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Nevada with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity, and other legal proceedings which may be pending in any of the courts of the Territory of Nevada at the time of the change from a Territorial to a State government, may be continued and transferred to and determined by any court of the State which shall have jurisdiction of the subject matter thereof. All actions at law and suits in equity, and all other legal proceedings, which may be pending in any of the courts of the Territory of Nevada at the time of the change from a Territorial to a State government, shall be continued and transferred to, and may be prosecuted to judgment and execution, in any court of the State which shall have jurisdiction of the subject matter thereof; and all books, papers and records, relating to the same shall be transferred in like manner to such court.

SEC. 5. For the first term of office succeeding the formation of a State Government, the salary of the Governor shall be four thousand dollars per annum; the salary of the Secretary of State shall be three

thousand six hundred dollars per annum; the salary of the State Controller shall be three thousand six hundred dollars per annum; the salary of the State Treasurer shall be three thousand six hundred dollars per annum; the salary of the Surveyor-General shall be one thousand dollars per annum; the salary of the Attorney-General shall be two thousand five hundred dollars per annum; the salary of the Superintendent of Public Instruction shall be two thousand dollars per annum; the salary of each Judge of the Supreme Court shall be seven thousand dollars per annum. The salaries of the foregoing officers shall be paid quarterly, out of the State Treasury. The pay of State Senators and members of Assembly shall be eight dollars per day, for each day of actual service, and forty cents per mile for mileage going to and returning from the place of meeting. No officer mentioned in this section shall receive any fee or perquisites to his own use for the performance of any duty connected with his office, or for the performance of any additional duty imposed upon him by law.

SEC. 6. Until otherwise provided by law, the apportionment of Senators and Assemblymen in the different counties shall be as follows, to wit: Storey county, four Senators and twelve Assemblymen; Douglas county, one Senator and two Assemblymen; Esmeralda county, two Senators and four Assemblymen; Humboldt county, two Senators and three Assemblymen; Lander county, two Senators and four Assemblymen; Lyon county, one Senator and three Assemblymen; Lyon and Churchill counties, one Senator jointly; Churchill county, one Assemblyman; Nye county, one Senator and one Assemblyman; Ormsby county, two Senators and three Assemblymen; Washoe and Roop counties, two Senators and three Assemblymen.

SEC. 7. All debts and liabilities of the Territory of Nevada, lawfully incurred, and which remain unpaid at the time of the admission of this State into the Union, shall be assumed by and become the debt of the State of Nevada; *provided*, that the assumption of such indebtedness shall not prevent the State from contracting the additional indebtedness, as provided in section three of Article IX of this Constitution.

[Sections 8 to 26, inclusive, are now only historical.]

SEC. 8. The term of State officers (except judicial) elected at the first election under this Constitution, shall continue until the Tuesday after the first Monday of January, A. D. eighteen hundred and sixty-seven, and until the election and qualification of their successors.

\* SEC. 9. The Senators to be elected at the first election under this Constitution shall draw lots, so that the term of one-half of the number, as nearly as may be, shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-six, and the term of the other half shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-eight; *provided*, that in drawing lots for all Senatorial terms, the Senatorial representation shall be allotted so that in the counties having two or more Senators, the terms thereof shall be divided, as nearly as may be, between the long and short terms.

SEC. 10. At the general election in A. D. eighteen hundred and sixty-six, and thereafter, the term of Senators shall be four years from the day succeeding such general election, and members of Assembly for two years from the day succeeding such general election, and the terms of Senators shall be allotted by the Legislature in long and short terms, as hereinbefore provided, so that one-half the number, as nearly as may be, shall be elected every two years.

SEC. 11. The term of the members of the Assembly elected at the first general election under this Constitution shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-five; and the terms of those elected at the general election in A. D. eighteen hundred and sixty-five shall expire on the day succeeding the general election in A. D. eighteen hundred and sixty-six.

SEC. 12. The first regular session of the Legislature shall commence on the second Monday of December, A. D. eighteen hundred and sixty-four, and the second regular session of the same shall commence on the first Monday of January, A. D. eighteen hundred and sixty-six, and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-seven; and the regular sessions of the Legislature shall be held thereafter biennially, commencing on the first Monday of January.

[Section 12 superseded by Section 2, Article IV.]

\* SEC. 13. All county officers under the laws of the Territory of Nevada at the time when the Constitution shall take effect, whose offices are not inconsistent with the provisions of this Constitution, shall continue in office until the first Monday of January, A. D. eighteen hundred and sixty-seven, and until their successors are elected and qualified; and all township officers shall continue in office until the expiration of their terms of office, and until their successors are elected and qualified; *provided*, that the Probate Judges of the several counties, respectively, shall continue in office until the election and qualification of the District Judges of the several counties or judicial districts; *and provided further*, that the term of office of the present county officers of Lander county shall expire on the first Monday of January, A. D. eighteen hundred and sixty-five, except the Probate Judge of said county, whose term of office shall expire upon the first Monday of December, A. D. eighteen hundred and sixty-four, and there shall be an election for county officers of Lander county at the general election in November, A. D. eighteen hundred and sixty-four, and the officers then elected shall hold office from the first Monday of January, A. D. eighteen hundred and sixty-five, until the first Monday of January, A. D. eighteen hundred and sixty-seven, and until their successors are elected and qualified.

SEC. 14. The Governor, Secretary, Treasurer and Superintendent of Public Instruction of the Territory of Nevada shall each continue to discharge the duties of their respective offices after the admission of this State into the Union, and until the time designated for the qualification of the above named officers to be elected under the State Government; and the Territorial Auditor shall continue to discharge

the duties of his said office until the time appointed for the qualification of the State Controller; *provided*, that the said officers shall each receive the salaries, and be subject to the restrictions and conditions provided in this Constitution; *and provided further*, that none of them shall receive to his own use any fees or perquisites for the performance of any duty connected with his office.

SEC. 15. The terms of the Supreme Court shall, until provision be made by law, be held at such times as the Judges of the said court, or a majority of them, may appoint. The first terms of the several District Courts (except as hereinafter mentioned) shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four. The first term of the District Court in the Fifth Judicial District shall commence on the first Monday of December, A. D. eighteen hundred and sixty-four, in the county of Nye, and shall commence on the first Monday of January, A. D. eighteen hundred and sixty-five, in the county of Churchill. The terms of the Fourth Judicial District Court shall, until otherwise provided by law, be held at the county seat of Washoe county, and the first term thereof commence on the first Monday of December, A. D. eighteen hundred and sixty-four.

SEC. 16. The Judges of the several District Courts of this State shall be paid, as hereinbefore provided, salaries at the following rates per annum: First Judicial District (each Judge) six thousand dollars; Second Judicial District, four thousand dollars; Third Judicial District, five thousand dollars; Fourth Judicial District, five thousand dollars; Fifth Judicial District, thirty-six hundred dollars; Sixth Judicial District, four thousand dollars; Seventh Judicial District, six thousand dollars; Eighth Judicial District, thirty-six hundred dollars; Ninth Judicial District, five thousand dollars.

SEC. 17. The salary of any Judge in said judicial districts may, by law, be altered or changed, subject to the provisions contained in this Constitution.

\* SEC. 18. The Governor, Lieutenant-Governor, Secretary of State, State Treasurer, State Controller, Attorney-General, Surveyor-General, Clerk of the Supreme Court, and Superintendent of Public Instruction, to be elected at the first election under this Constitution, shall each qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election, and shall continue in office until the first Tuesday after the first Monday of January, A. D. eighteen hundred and sixty-seven, and until the election and qualification of their successors respectively.

SEC. 19. The Judges of the Supreme Court and District Judges to be elected at the first election under this Constitution shall qualify and enter upon the duties of their respective offices on the first Monday of December succeeding their election.

SEC. 20. All officers of State, and District Judges first elected under this Constitution shall be commissioned by the Governor of this Territory, which commission shall be countersigned by the Secretary of the same, and shall qualify, before entering upon the discharge of their duties, before any officer authorized to administer oaths under the laws of this Territory; and also the State Controller and State



Treasurer shall each respectively, before they qualify and enter upon the discharge of their duties, execute and deliver to the Secretary of the Territory of Nevada an official bond, made payable to the people of the State of Nevada, in the sum of thirty thousand dollars, to be approved by the Governor of the Territory of Nevada, and shall also execute and deliver to the Secretary of State such other or further official bond or bonds as may be required by law.

SEC. 21. Each county, town, city and incorporated village shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law.

SEC. 22. In case the office of any Justice of the Supreme Court, District Judge, or other State officer shall become vacant before the expiration of the regular term for which he was elected, the vacancy may be filled by appointment by the Governor, until it shall be supplied at the next general election, when it shall be filled by election for the residue of the unexpired term.

SEC. 23. All cases, both civil and criminal, which may be pending and undetermined in the Probate Courts of the several counties at the time when, under the provisions of this Constitution, said Probate Courts are to be abolished, shall be transferred to and determined by the District Courts of such counties respectively.

SEC. 24. For the first three years after the adoption of this Constitution, the Legislature shall not levy a tax for State purposes exceeding one per cent per annum on the taxable property in the State; *provided*, the Legislature may levy a special tax, not exceeding one-fourth of one per cent per annum, which shall be appropriated for the payment of the indebtedness of the Territory of Nevada assumed by the State of Nevada, and for that purpose only, until all of said indebtedness is paid.

\* SEC. 25. The county of Roop shall be attached to the county of Washoe for judicial, legislative, revenue and county purposes until otherwise provided by law.

SEC. 26. At the first regular session of the Legislature to convene under the requirements of this Constitution, provision shall be made by law for paying for the publication of six hundred copies of the debates and proceedings of this Convention in book form, to be disposed of as the Legislature may direct; and the Hon. J. Neely Johnson, President of this Convention, shall contract for, and A. J. Marsh, Official Reporter of this Convention, under the direction of the President, shall supervise the publication of such debates and proceedings. Provision shall be made by law at such first session of the Legislature for the compensation of the official reporter of this convention, and he shall be paid in coin or its equivalent. He shall receive, for his services in reporting the debates and proceedings, fifteen dollars per day during the session of the convention, and seven and one-half dollars additional for each evening session, and thirty cents per folio of one hundred words for preparing the same for publication; and for supervising and indexing such publication the sum of fifteen dollars per day during the time actually engaged in such service.

## ARTICLE XVIII

## RIGHT OF SUFFRAGE

SECTION 1. The rights of suffrage and office-holding shall not be withheld from any male citizen of the United States by reason of his color or previous condition of servitude.

[Article XVIII was proposed and passed at the Eighth Session of the Legislature, January 15, 1877, Statutes of 1877, page 213; agreed to and passed at the Ninth Session of the Legislature, January 27, 1879, Statutes of 1879, page 149, and approved and ratified by the people at the general election of 1880.]

## ELECTION ORDINANCE

WHEREAS, The enabling Act passed by Congress and approved March twenty-first, A. D. eighteen hundred and sixty-four, requires that the Convention charged with the duty of framing a Constitution for a State Government "shall provide by ordinance for submitting said Constitution to the people of the Territory of Nevada for their ratification or rejection," on a certain day prescribed therein; therefore this convention, organized in pursuance of said enabling Act, do establish the following ordinance:<sup>a</sup>

SECTION 1. The Governor of the Territory of Nevada is hereby authorized to issue his proclamation for the submission of this Constitution to the people of said Territory, for their approval or rejection, on the day provided for such submission by Act of Congress; and this Constitution shall be submitted to the qualified electors of said Territory, in the several counties thereof, for their approval or rejection, at the time provided by such Act of Congress; and further, on the first Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-four, there shall be a general election in the several counties of said Territory for the election of State officers, Supreme and District Judges, members of the Legislature, Representative in Congress and three Presidential Electors.

SEC. 2. All persons qualified by the laws of said Territory to vote for Representatives to the General Assembly on the said twenty-first day of March, including those in the army of the United States, both within and beyond the boundaries of said Territory, and also all persons who may, by the aforesaid laws, be qualified to vote on the first Wednesday of September, A. D. eighteen hundred and sixty-four, including those in the aforesaid army of the United States, within and without the boundaries of said Territory, may vote for the adoption or rejection of said Constitution, on the day last above named. In voting upon this Constitution each elector shall deposit in the ballot box a ticket, whereon shall be clearly written or printed "Constitution—Yes" or "Constitution—No," or such other words that shall clearly indicate the intention of the elector.

SEC. 3. All persons qualified by the laws of said Territory to vote on the Tuesday after the first Monday of November, A. D. eighteen hundred and sixty-four, including those in the army of the United States, within and beyond the boundaries of said Territory, may vote

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<sup>a</sup> This ordinance is now only historical.

on the day last above named for State officers, Supreme and District Judges, members of the Legislature, Representative in Congress and three Presidential Electors to the Electoral College.

SEC. 4. The elections provided in this ordinance shall be holden at such places as shall be designated by the Boards of Commissioners of the several counties in said Territory. The Judges and Inspectors of said elections shall be appointed by said Commissioners, and the said elections shall be conducted in conformity with the existing laws of said Territory in relation to holding the general election.

SEC. 5. The Judges and Inspectors of said elections shall carefully count each ballot immediately after said elections and forthwith make duplicate returns thereof to the Clerks of the said County Commissioners of their respective counties; and said Clerks, within fifteen days after said election, shall transmit an abstract of the votes, including the soldiers' vote, as herein provided, given for State officers, Supreme and District Judges, Representative in Congress and three Presidential Electors, enclosed in an envelope, by the most safe and expeditious conveyance, to the Governor of said Territory, marked "Election Returns."

\* SEC. 6. Upon the receipt of said returns, including those of the soldiers' vote, or within twenty days after the election, if said returns be not sooner received, it shall be the duty of the Board of Canvassers, to consist of the Governor, United States District Attorney and Chief Justice of said Territory, or any two of them, to canvass the returns in the presence of all who may wish to be present, and if a majority of all the votes given upon this Constitution shall be in its favor, the said Governor shall immediately publish an abstract of the same, and make proclamation of the fact in some newspaper in said Territory, and certify the same to the President of the United States, together with a copy of the Constitution and ordinance. The said Board of Canvassers, after canvassing the votes of the said November elections, shall issue certificates of election to such persons as were elected State officers, Judges of the Supreme and District Courts, Representative in Congress and three Presidential Electors. When the President of the United States shall issue his proclamation declaring this State admitted into the Union on an equal footing with the original States, this Constitution shall thenceforth be ordained and established as the Constitution of the State of Nevada.

SEC. 7. For the purpose of taking the vote of the electors of said Territory who may be in the army of the United States, the Adjutant-General of said Territory shall, on or before the fifth day of August next following, make out a list in alphabetical order, and deliver the same to the Governor, of the names of all the electors, residents of said Territory, who shall be in the army of the United States, stating the number of the regiment, battalion, squadron, or battery to which he belongs, and also the county and township of his residence in said Territory.

SEC. 8. The Governor shall classify and arrange the aforesaid returned list, and shall make therefrom separate lists of the electors belonging to each regiment, battalion, squadron and battery from said Territory, in the service of the United States, and shall, on or before

the fifteenth day of August following transmit, by mail or otherwise, to the commanding officer of each regiment, battalion, squadron and battery, a list of electors belonging thereto, which said list shall specify the name, residence and rank of each elector and the company to which he belongs, if to any, and also the county and township to which he belongs, and in which he is entitled to vote.

\* SEC. 9. Between the hours of nine o'clock a. m. and three o'clock p. m., on each of the election days hereinbefore named, a ballot box, or suitable receptacle for votes, shall be opened, under the immediate charge and direction of three of the highest officers in command, for the reception of votes from the electors whose names are upon said list, at each place where a regiment, battalion, squadron, or battery of soldiers from said Territory, in the army of the United States, may be on that day, at which time and place said elector shall be entitled to vote for all officers for which, by reason of their residence in the several counties in said Territory, they are authorized to vote, as fully as they would be entitled to vote in the several counties or townships in which they reside, and the votes so given by such electors, at such time and place, shall be considered, taken and held to have been given by them in the respective counties and townships in which they are resident.

SEC. 10. Each ballot deposited for the adoption or rejection of this Constitution, in the army of the United States, shall have distinctly written or printed thereon "Constitution—Yes," or "Constitution—No," or words of a similar import; and, further, for the election of State officers, Supreme and District Judges, members of the Legislature, Representative in Congress, and three Presidential Electors, the name and office of the person voted for shall be plainly written or printed on one piece of paper. The name of each elector voting as aforesaid shall be checked upon the said list, at the time of voting, by one of the said officers having charge of the ballot box. The said officers having charge of the election shall count the votes and compare them with the checked lists immediately after the closing of the ballot box.

SEC. 11. All the ballots cast, together with the said voting list, checked as aforesaid, shall be immediately sealed up and sent forthwith to the Governor of said Territory, at Carson City, by mail or otherwise, by the commanding officer, who shall make out and certify duplicate returns of votes given, according to the forms hereinafter prescribed, seal up and immediately transmit the same to the said Governor, at Carson City, by mail or otherwise, the day following the transmission of the ballots and the voting list herein named. The said commanding officer shall also immediately transmit to the several County Clerks in said Territory, an abstract of the votes given at the general election in November, for county officers, marked "Election Returns."

SEC. 12. The forms of returns of votes to be made by the commanding officer to the Governor and County Clerks of said Territory shall be in substance as follows, viz:

Returns of soldiers' votes in the (here insert the regiment, detachment, battalion, squadron or battery)

(For first election—On the Constitution)

I, \_\_\_\_\_, hereby certify that on the first Wednesday of September, A. D. eighteen hundred and sixty-four, the electors belonging to the (here insert the name of the regiment, detachment, battalion, squadron, or battery) cast the following number of votes for and against the Constitution for the State of Nevada, viz:

For Constitution—(number of votes written in full and in figures).

Against Constitution—(number of votes written in full and in figures).

(Second election—For State and other officers.)

I, \_\_\_\_\_, hereby certify, that on the first Tuesday after the first Monday in November, A. D. eighteen hundred and sixty-four, the electors belonging to the (here insert as above) cast the following number of votes for the several officers and persons hereinafter named, viz:

For Governor—(names of persons voted for, number of votes for each person voted for, written in full, and also in figures, against the name of each person).

For Lieutenant-Governor—(names of candidates, number of votes cast for each written out and in figures as above).

Continue as above till the list is completed.

Attest:

I. A. B.

*Commanding officer of the* (here insert regiment, detachment, battalion, squadron, or battery, as the case may be).

SEC. 13. The Governor of this Territory is requested to furnish each commanding officer, within and beyond the boundaries of said Territory, proper and sufficient blanks for said returns.

SEC. 14. The provisions of this ordinance in regard to the soldiers' vote shall apply to future elections under this Constitution, and be in full force until the Legislature shall provide by law for taking the votes of citizens of said Territory in the army of the United States.

Done in convention, at Carson City, the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-four, and of the independence of the United States the eighty-ninth, and signed by the delegates.

J. NEELY JOHNSON,

*President of the Convention and Delegate from Ormsby county.*

WM. M. GILLESPIE, *Secretary.*



## NEW HAMPSHIRE

For organic acts relating to the lands now included within New Hampshire see in other parts of this work :

Virginia Charter of 1606 (Virginia, p. 3783).

Council for New England, 1620 (Massachusetts, p. 1827).

Charter of Massachusetts Bay, 1629 (Massachusetts, p. 1846).

Commission to Andros, 1688 (Massachusetts, p. 1863).

### GRANT OF NEW HAMPSHIRE TO CAPT. JOHN MASON, 7TH OF NOVEMR., 1629 \* a

This Indenture made y<sup>e</sup> Seaventh day of Novemb<sup>r</sup> Anno Dom<sup>y</sup> 1629 & in y<sup>e</sup> ffifth y<sup>e</sup>are of y<sup>e</sup> Reigne of our Sovereigne Lord Charles by y<sup>e</sup> Grace of God King of England Scotland ffrance & Ireland Defender of the ffaith &c Between y<sup>e</sup> President & Councell of new England on the one partie & Cap<sup>t</sup> John Mason of London Esq<sup>r</sup> on y<sup>e</sup> other partie Wittnesseth y<sup>t</sup> whereas our late Sovereigne Lord of ffamous Memory King James for y<sup>e</sup> makeing a Plantation & establishing of a Colony or Colonyes in the Countrey called or knowen by y<sup>e</sup> name of New England in America did by his highness letters patents under y<sup>e</sup> greate Seale of England bearing date att Westminster y<sup>e</sup> third day of Novemb<sup>r</sup> in y<sup>e</sup> Eighteenth yeare of his Reigne give grant & confirme unto y<sup>e</sup> Right hon<sup>ble</sup> Lodowick Duke of Lenox George marquis of Buckingham James marquis of Hamilton Thomas Earle of Arundell Robert Earle of Warwick S<sup>r</sup> Ferdinando Gorges Kn<sup>t</sup> & divers others whose names are expressed in y<sup>e</sup> said letters patents their heyres & assignes. That they shall be one bodye politicque & corporate perpetuall & y<sup>t</sup> they should have perpetuall Succession & one com'on seale or Seales to serve for y<sup>e</sup> Said bodye & that they & their Successors shalbe known called & incorporated by y<sup>e</sup> name of president & Councell established at Plymouth for y<sup>e</sup> planting ruling & Governing of New England in America and also did of his especiall Grace certaine knowledge and meer motion for him his heyres & Successors give grant & confirme unto y<sup>e</sup> said President & Councell & their Successors under y<sup>e</sup> reservac'ons limitac'ons &

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\* Historical Collections; Consisting of State Papers, and other authentic Documents; intended as Material for an History of the United States of America. By Ebenezer Hazard, Philadelphia, printed by T. Dodson, for the Author MDCCXCII. I. 289-295.

For all the New Hampshire Grants. Charters, Leases, Deeds, Royal Instructions 1620-1746, and later organic acts to 1776 see New Hampshire State Papers, [Edited by Hon. A. S. Batchellor] Vol. XXIX, Concord, N. H., 1896; also, Laws of New Hampshire, Vol. I, Province Period, 1679-1702. Manchester, N. H., 1904.

a New Hampshire State Papers, XXIX, Vol. VI, pp. 28-33.

declarac'ons in y<sup>e</sup> s<sup>d</sup> letters patents expressed. All y<sup>t</sup> part & porc'on  
 of y<sup>t</sup> Countrey now commonly called New England w<sup>ch</sup> is scittuate  
 lying & being between y<sup>e</sup> latitude of fforty degrees & ffourty Eight  
 of Northerly latitude together w<sup>th</sup> y<sup>e</sup> Seas & Islands lying w<sup>th</sup>in one  
 hundred miles of any part of y<sup>e</sup> s<sup>d</sup> Coaste of y<sup>e</sup> Countrey afores<sup>d</sup>  
 & also all y<sup>e</sup> lands Soyle grounds havens ports rivers mines as well  
 Royall mignes of Gold & Silver as other mines mineralls pearls &  
 pretious Stones woods quarryes marshes waters ffishings hunting  
 hawking fowling commodities & hereditaments whatsoever together  
 w<sup>th</sup> all perogatives Jurisdicc'ons Royalties pliviledges franchises &  
 preheminences within any of y<sup>e</sup> s<sup>d</sup> Territoryes & y<sup>e</sup> precincts thereof  
 whatsoever To have hold possess & Injoye all & singular y<sup>e</sup> said  
 lands & premisses in y<sup>e</sup> said letters patents granted or menc'oned to  
 be granted unto them y<sup>e</sup> s<sup>d</sup> President & Councill their Successors &  
 Assignes for ever to be holden of his Ma<sup>tie</sup> his heirs & Successors as  
 of his Highness Man'or of East Greenwich in y<sup>e</sup> County of Kent  
 in free & com'on Succage & not in Capite or by Knights Service  
 yeelding & paying to y<sup>e</sup> Kings Ma<sup>tie</sup> his heirs & Successors y<sup>e</sup> one  
 ffifth part of all gold & silver oare y<sup>t</sup> from time to time & at all  
 times frome y<sup>e</sup> date of y<sup>e</sup> said letters patents shalbee there gotten  
 had or obteyned for all services duties or demands as in & by his  
 highness said letters patents amongst diverse other things therein  
 conteyned more fully and at large it doth & may appeare And  
 whereas y<sup>e</sup> said President & Councell have upon mature deliberac'on  
 thought fitt for y<sup>e</sup> better furnishing & furtherance of y<sup>e</sup> plantac'on  
 in those parts to appropriate & allott to severall & particular per-  
 sons divers parcells of land w<sup>th</sup>in y<sup>e</sup> precincts of y<sup>e</sup> afores<sup>d</sup> granted  
 premises by his Ma<sup>ties</sup> s<sup>d</sup> letters patent. Now this Indenture witt-  
 nesseth y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> President & Councill of their full free & mutuall  
 consent as well to y<sup>e</sup> end y<sup>t</sup> all y<sup>e</sup> lands woods lakes rivers watters  
 Islands & fishings w<sup>th</sup> all other y<sup>e</sup> traficques profitts & Comodities  
 w<sup>soever</sup> to them or any of them belonging & heerafter in these p'nts  
 menc'oned may be wholly & intirely invested appropriated severed  
 & settled in & upon y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heyres & Assignes  
 for ever or for diverse speciall services for y<sup>e</sup> advancem<sup>t</sup> of y<sup>e</sup> s<sup>d</sup>  
 plantac'ons & other good & Sufficient causes & considerac'ons them  
 especially thereunto moveing Have given granted bargained sould  
 assigned Aliened sett over enfeofed & confirmed And by these  
 p'nts doe give grant bargaine sell assigne alien sett over enfeofe  
 and confirme unto y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heyres and assignes All  
 y<sup>t</sup> part of y<sup>e</sup> Maine land in New England lying upon y<sup>e</sup> sea Coaste  
 begining from y<sup>e</sup> Middle part of Merrimack River & from thence  
 to proceed Northwards along y<sup>e</sup> Sea coaste to passcattaway river  
 & soe forwards up w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> river & to y<sup>e</sup> furthest head thereof &  
 from thence Northwestwards untill Threescore miles be finished from  
 y<sup>e</sup> ffirst entrance of passcattaway river & also from Merrimacke  
 through y<sup>e</sup> s<sup>d</sup> River & to y<sup>e</sup> furthest head thereof & soe forward up  
 into y<sup>e</sup> land Westwards untill Threescore miles be finished and  
 from thence to cross over land to y<sup>e</sup> Threescore miles end accounted  
 from passcattaway river together w<sup>th</sup> all Islands & Isletts w<sup>th</sup>in five  
 leagues distance of y<sup>e</sup> premises & abutting upon y<sup>e</sup> same or any  
 parte or parcell thereof as also all y<sup>e</sup> lands soyle grounds havens  
 ports rivers mines Mineralls pearles pretious stones woods quarreys

marshes waters fishings hunting hawking fowling & other commodities & hereditam<sup>ts</sup> w<sup>t</sup> soever w<sup>th</sup> all & singular their appurten<sup>ces</sup> together w<sup>th</sup> all prerogatives rights royalties Jurisdicc<sup>ions</sup> priviledges franchises rights royalties Jurisdicc<sup>ions</sup> priviledges franchises liberties preheminences marine power in & upon y<sup>e</sup> s<sup>d</sup> Seas & rivers as allso all escheats & casualtyes therof as flotson Jetson lagon w<sup>th</sup> anchorage & other such dutyes im<sup>unities</sup> sects isletts & appurten<sup>ces</sup> w<sup>t</sup> soever w<sup>th</sup> all y<sup>e</sup> estate right title interest claime & demand w<sup>t</sup> soever w<sup>ch</sup> y<sup>e</sup> s<sup>d</sup> president & Councell & their Successors of Right ought to have or Claime in or to y<sup>e</sup> s<sup>d</sup> porc<sup>ions</sup> of lands rivers & other y<sup>e</sup> premises as is afores<sup>d</sup> by reason or force of his high<sup>ss</sup> s<sup>d</sup> letters patents in as free large ample & beneficiall man<sup>er</sup> to all intents construcc<sup>ions</sup> & purposes w<sup>t</sup>soever as in & by y<sup>e</sup> s<sup>d</sup> Letters pattents y<sup>e</sup> same are amongst other things granted to y<sup>e</sup> s<sup>d</sup> president & Councell afores<sup>d</sup> except two fifths of y<sup>e</sup> Oare of gold & Silver in these p<sup>nts</sup> heer after expressed w<sup>ch</sup> s<sup>d</sup> portions of land w<sup>th</sup> y<sup>e</sup> appurten<sup>ces</sup> y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason w<sup>th</sup> y<sup>e</sup> consent of y<sup>e</sup> president & Councill intends to name New Hampshire To have & to hold all y<sup>e</sup> s<sup>d</sup> porc<sup>ions</sup> of land Islands rivers & premises and all and singular other y<sup>e</sup> comodities & hereditam<sup>ts</sup> hereby given granted aliened enfeoffed & confirmed or menc<sup>oned</sup> or intended by these p<sup>nts</sup> to be given granted aliened enfeoffed & confirmed w<sup>th</sup> all & singular y<sup>e</sup> appurten<sup>ces</sup> & every part & parcell thereof unto y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heyres & assignes for ever To be holden of his s<sup>d</sup> Ma<sup>tie</sup> his heires & Successors as of his Highness Man<sup>or</sup> of East Greenwich in y<sup>e</sup> County of Kent in free & Com<sup>on</sup> soccage & not in Capite or by Kn<sup>ts</sup> service nevertheless w<sup>th</sup> such exceptions reservac<sup>ions</sup> limitac<sup>ions</sup> & declarac<sup>ions</sup> as in y<sup>e</sup> s<sup>d</sup> Letters pattents are att large expressed yeelding & paying unto our Sovereigne Lord the King his heires & Successors y<sup>e</sup> fifth part of all y<sup>e</sup> oare of gold & silver y<sup>t</sup> from time to time & att all times heerafter shalbe there gotten had & obteyned for all services dutyes & demands & also yeelding & paying unto y<sup>e</sup> s<sup>d</sup> president & Councill & their Successors yearly y<sup>e</sup> Sum<sup>e</sup> of five shillings English mony if it be demanded. And y<sup>e</sup> s<sup>d</sup> president & Councill for them & their Successors doe covenant & grant to & w<sup>th</sup> y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heyres & assignes from & after then sealing & delivery of these p<sup>nts</sup> according to y<sup>e</sup> purporte true intent & meaning of these p<sup>nts</sup> that he shall from henceforth from time to time for ever peaceably & quietly have hold possess & enjoye all the afores<sup>d</sup> lands Islands rivers & premises, w<sup>th</sup> y<sup>e</sup> appurtences heerby before given & granted or menconed or intended to be heerby given & granted & every part & parcell thereof w<sup>th</sup>out any lett disturbance denyall trouble interrupte<sup>on</sup> or Evic<sup>on</sup> of or by y<sup>e</sup> s<sup>d</sup> president and Councill or any person or persons w<sup>t</sup>soever claiming by form or under them & their Successors or by or under their estate right title or interest And y<sup>e</sup> s<sup>d</sup> president and Councill for them & their Successors doe further covenant & grant to & with y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heires & assignes by these p<sup>nts</sup>. That they y<sup>e</sup> s<sup>d</sup> president & Councill shall at all times hereafter upon reasonable request at y<sup>e</sup> only proper cost and charges in y<sup>e</sup> Law of y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heires & assigness doe make performe suffer execute & willingly consent unto any farther, act or acts conveyance or conveyances assurance or assurances w<sup>t</sup>soever for y<sup>t</sup> good & perfect investing

assureing conveying & sure making of all y<sup>e</sup> afores<sup>d</sup> porc'ons of lands Islands Rivers & all & singular their appurten'ces to y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heires & Assigness as by him his heires & assigness or by his their or any of their Councell learned in y<sup>e</sup> law shalbe devised advised or required And further it is agreed by & between y<sup>e</sup> s<sup>d</sup> partyes to these p<sup>re</sup>nts. And y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason for him his heires & assignes doth covenant to & wth y<sup>e</sup> s<sup>d</sup> president & Councill & their Successors by these p<sup>re</sup>nts That if at any time hereafter there shall be found any oare of Gold & Silver w<sup>th</sup>in y<sup>e</sup> ground in any part of y<sup>e</sup> s<sup>d</sup> premises That he then y<sup>e</sup> said Cap<sup>t</sup> John Mason his heires & assigness shall yeald & pay unto y<sup>e</sup> s<sup>d</sup> president & Councill their Successors and Assigness one fifth part of all such Gold & Silver oare as shalbe found in & upon y<sup>e</sup> s<sup>d</sup> premises & digged & brought above ground to be delivered above ground & y<sup>t</sup> always w<sup>th</sup>in reasonable & convenient time if it be demanded after y<sup>e</sup> finding digging getting up of such oare as afores<sup>d</sup> w<sup>th</sup>out fraud or conin & according to y<sup>e</sup> true intent & meaning of these p<sup>re</sup>nts And y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason doth further covenant for him his heires & assigness that he will establish such governm<sup>t</sup> in y<sup>e</sup> s<sup>d</sup> porc'ons of lands & Islands granted unto him & y<sup>e</sup> same will from time to time continue as shall be agreable as near as may be to y<sup>e</sup> laws & costoms of y<sup>e</sup> Realme of England & if he shall be charged at any time to have neglected his duty therein y<sup>t</sup> then he will reforme y<sup>e</sup> same according to y<sup>e</sup> direction of y<sup>e</sup> president & Councill or in Default thereof it shalbe lawfull for any of y<sup>e</sup> aggrieved inhabitants or planters being tennants upon y<sup>e</sup> said lands to appeale to y<sup>e</sup> cheif Courts of Justice of y<sup>e</sup> s<sup>d</sup> president & Councill And further that if y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heires & assigness shall at any time hereafter alien these premisses or any part to any forraigne Nations or to any person or persons of any forraigne nation w<sup>th</sup>out y<sup>e</sup> speciall licence consent & agreem<sup>t</sup> of y<sup>e</sup> s<sup>d</sup> president & Councill their Successors or assigness That then y<sup>e</sup> part or parts of y<sup>e</sup> s<sup>d</sup> lands soe aliened shall immediatly returne back again to y<sup>e</sup> use of y<sup>e</sup> s<sup>d</sup> president & Councill And further knowe yee y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> president & Councill have made constituted deputed authorized & appointed & in their place & stead doe put Cap<sup>t</sup> Walter Neale or in his absence to any other psone y<sup>t</sup> shalbe their Governor or other officer to be their true & lawfull Attorney & in their name & stead to enter y<sup>e</sup> s<sup>d</sup> porc'ons of lands & other y<sup>e</sup> premises w<sup>t</sup> their ap'urtences or into some part thereof in y<sup>e</sup> name of y<sup>e</sup> whole for them & in their name to have & take possission & seizin thereof or some pt thereof in y<sup>e</sup> name of y<sup>e</sup> whole soe had & taken. Then for them & in their nams to deliver y<sup>e</sup> full & peaceable possession & seizin of all & singular y<sup>e</sup> s<sup>d</sup> granted premises unto y<sup>e</sup> said Cap<sup>t</sup> John Mason or to his Certaine Attorney or Attornies in y<sup>r</sup> behalf according to y<sup>e</sup> true intent & meaning of these p<sup>re</sup>nts ratifying confirming & allowing all & what soever y<sup>e</sup> s<sup>d</sup> Attorney shall doe in or about y<sup>e</sup> premises of these p<sup>re</sup>nts in wittness whereof to one part of these present Indentures remaining in y<sup>e</sup> hands of Cap<sup>t</sup> John Mason y<sup>e</sup> s<sup>d</sup> president & Councill have caused their common Seale to be affixed & to y<sup>e</sup> other part of these p<sup>re</sup>nts Indentures remaining in y<sup>e</sup> custody of y<sup>e</sup> s<sup>d</sup> president & Councill y<sup>e</sup> s<sup>d</sup> John Mason hath putt to his hand & Seal Given y<sup>e</sup> day & yeare first above written.

**GRANT OF THE PROVINCE OF NEW HAMPSHIRE TO JOHN  
WOLLASTON, ESQ., AN. 1635 \***

This Indenture made y<sup>e</sup> Eighteenth day of Aprill in y<sup>e</sup> Eleaventh yeare of y<sup>e</sup> raigne of our Sovereigne Lord Charles by y<sup>e</sup> Grace of God King of England Scotland France & Ireland Defender of the faith &c Between y<sup>e</sup> Councill established at Plymouth in y<sup>e</sup> County of Devon for y<sup>e</sup> planting ruleing ordering & governing of New England in America of y<sup>e</sup> one part & John Wollaston cittizen & Gold-Smith of London of y<sup>e</sup> other part wittnesseth y<sup>t</sup> whereas our late Sovereigne Lord King James of blessed memory by his highness Letters pattents under y<sup>e</sup> great Seale of England beareing date at Westminster y<sup>e</sup> third day of Novemb<sup>r</sup> in y<sup>e</sup> Eight year of his highness Raigne over y<sup>e</sup> Realme of England for y<sup>e</sup> considerac'on in y<sup>e</sup> s<sup>d</sup> letters patents expressed hath absolutly given granted & confirmed unto y<sup>e</sup> s<sup>d</sup> Councill & thier Successors for ever All y<sup>e</sup> land of New England in America lying & being in breadth from fourty degrees of Northerly latitude from y<sup>e</sup> Equinoctiall line to fourty eight degrees of y<sup>e</sup> s<sup>d</sup> Northerly Latytude inclusively & in length of & w<sup>th</sup>in all y<sup>e</sup> breadth afores<sup>d</sup> from Sea to Sea together alsoe w<sup>th</sup> all y<sup>e</sup> firme lands soyles grounds havens, ports, rivers waters fishings mines mineralls as well Royall mines of Gold & Silver as other mines & mineralls pretious Stones quarryes & all & singular other Comodities Jurisdic'ons Royalties priviledges franchises & preheminences both w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> tract of land upon y<sup>e</sup> maine & alsoe w<sup>th</sup>in y<sup>e</sup> Islands adjoyning as by y<sup>e</sup> s<sup>d</sup> letters pattents amongst divers other things therein contained more at large it doth & may appeare Now this Indenture further wittnesseth y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> Councill in performance of an agreem<sup>t</sup> between them made & enacted y<sup>e</sup> third day of ffebruary last past before y<sup>e</sup> date of these p'nts & also for diverse other good causes & considerac'ons them y<sup>e</sup> s<sup>d</sup> Councill hereunto especially moveing have demised granted & to farme letten & by these p'nts doe demise grant & to farme lett unto y<sup>e</sup> s<sup>d</sup> John Woollaston his Executors & assignes all y<sup>t</sup> part purpart & porc'on of y<sup>e</sup> Maine Land in New England afores<sup>d</sup> being from y<sup>e</sup> middle part of Naumkeck river & from thence to proceed Eastwards along y<sup>e</sup> Sea Coast to Cape Anne & round about y<sup>e</sup> same to Passcattaway harbour & soe forwards up w<sup>th</sup>in y<sup>e</sup> river of Newichewanock & to y<sup>e</sup> furthest head of y<sup>e</sup> s<sup>d</sup> River & from thence northwestward till Six miles be finished from y<sup>e</sup> first entrance of Passcattaway harbour & also from Naumkeck through y<sup>e</sup> river therof up into y<sup>e</sup> land west Sixty miles from w<sup>ch</sup> period to crose over land to y<sup>e</sup> Sixty Miles end accompted from Passcattawy though Newichewanock to y<sup>e</sup> land north westward afores<sup>d</sup> & alsoe all y<sup>t</sup> y<sup>e</sup> South half of y<sup>e</sup> Isles of Shoulds together w<sup>th</sup> all other Islands & Isletts as well imbayed as w<sup>th</sup>in five leagues distance from y<sup>e</sup> premises or abutting upon y<sup>e</sup> same or any part thereof not otherwise granted to any by speciall name and together alsoe w<sup>th</sup> all y<sup>e</sup> woods & underwoods & trees now standing growing & being or w<sup>ch</sup> may stand growe to be upon y<sup>e</sup> s<sup>d</sup> demised premises or any part or pacell thereof w<sup>ch</sup> porc'on of land and premises are from hence forth to be

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\* New Hampshire State Papers, XXIX, Vol. VI, pp. 64-66.



called by y<sup>e</sup> name of New Hampshire And alsoe y<sup>e</sup> s<sup>d</sup> Councill for y<sup>e</sup> considerac'ons afores<sup>d</sup> have demised granted & to farme letten & by these p'nts doe demise grant & to farme lett unto y<sup>e</sup> s<sup>d</sup> John Wallaston his Executors & assignes all y<sup>t</sup> other parcell of lands woods & wood grounds lying on y<sup>e</sup> South east part of ye river of Sagadahock in y<sup>e</sup> North east part of New England afors<sup>d</sup> att y<sup>e</sup> mouth & entrance therof conteining & to contain tenn Thousand Acres together alsoe w<sup>th</sup> all y<sup>e</sup> woods under woods & trees of y<sup>e</sup> same other parcell of land & wood ground shall from hence forth be called by y<sup>e</sup> name of Masonia And asoe y<sup>e</sup> s<sup>d</sup> Councill for y<sup>e</sup> considerac'ons afores<sup>d</sup> have demised granted & to farme letten & by these p'nts doe demise grant & to farme lett unto y<sup>e</sup> s<sup>d</sup> John Wollaston his execto<sup>r</sup> & assignes together w<sup>th</sup> all y<sup>e</sup> s<sup>d</sup> lands & Islands and premises all y<sup>e</sup> soyles grounds havens ports rivers watters ffishings mines & mineralls as well Royall mines of Gold & Silver as other mines mineralls pretious Stones quarreys & all & Singular other Com'odities Jurisdictic'ons royalltyes priviledges ffranchises & preheminences both w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> tracts of land upon y<sup>e</sup> Maine & alsoe w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> Islands or any of y<sup>e</sup> s<sup>d</sup> demised premises and together alsoe w<sup>th</sup> all rents reserved upon y<sup>e</sup> premises or y<sup>e</sup> any part or parcell thereof perquisitts & profitts of Courts Deodands waives & straies goods of felons & fugitives escheats & all other casuall profitts w<sup>t</sup> soever ariseing or w<sup>ch</sup> may hereafter arise out of y<sup>e</sup> s<sup>d</sup> Demised premises or out of any part or parcell therof Savein excepting & reserveing only out of this p'nte demised or granted y<sup>e</sup> fifth part of all y<sup>e</sup> Gold & Silver oare due to his Ma<sup>tie</sup> his heires & Successors & in & by y<sup>e</sup> s<sup>d</sup> Recited letters pattents recovered To have hold & enjoy all & singular y<sup>e</sup> s<sup>d</sup> lands Islands & all other the s<sup>d</sup> demised premises w<sup>th</sup> their & every of their appurtences unto y<sup>e</sup> s<sup>d</sup> John Wollaston his executors & assigness from y<sup>e</sup> day of y<sup>e</sup> date heerof unto y<sup>e</sup> full end & terme of three Thousand Yeares from thence forth next & imediatly ensuing & fully to be compleate & ended w<sup>th</sup>out impeachment of any maner of wast & also with full Power to doe & comitt of man'er of wast either in y<sup>e</sup> selling felling or cutting of any timber trees woods & underwoods or in y<sup>e</sup> new opening of any mines of Gold or Silver or any other Mines w<sup>t</sup> soever & also w<sup>th</sup> full power licence & authority to sell fell cutt downe carrey & dispose of to his & their owne proper use & behoofe att his & their free will & pleasure all & singular y<sup>e</sup> s<sup>d</sup> woods & underwoods & trees & alsoe to digge & car'y a way or other wise dispose of all or any y<sup>e</sup> soyle mines pretious Stones & quarreys & to convert & imploy or other wise enjoy y<sup>e</sup> same as fully freely & in as large ample beneficiall man'er to all intents & purposes as they y<sup>e</sup> s<sup>d</sup> Councill or any of them by vertue of y<sup>e</sup> s<sup>d</sup> recitted letters pattents may might or ought to have hold & enjoy y<sup>e</sup> same Yeelding & paying therefore yearly dureing y<sup>e</sup> s<sup>d</sup> terme one peper Corne to be lawfully demanded In wittness wherof to y<sup>e</sup> one part of this p'nte Indenture remaining in y<sup>e</sup> hands of y<sup>e</sup> s<sup>d</sup> John Wollaston they y<sup>e</sup> s<sup>d</sup> Councill have fixed their Com'on seale to y<sup>e</sup> other part of this p'nte Indenture remaining in y<sup>e</sup> hands of y<sup>e</sup> s<sup>d</sup> Councill y<sup>e</sup> s<sup>d</sup> John Wollaston hath sett his hand & seale dated y<sup>e</sup> day & yeare first above written Annoqe Dom' 1635

**GRANT OF THE PROVINCE OF NEW HAMPSHIRE FROM MR.  
WOLLASTON TO MR. MASON, 11th JUNE, 1635 \***

This Indenture Made the 11<sup>th</sup> day of June in the 11<sup>th</sup> yeare of y<sup>e</sup> Raigne of our Sovereign Lord Charles by the grace of God King of England Scotland France & Ireland Defender of y<sup>e</sup> ffaith &c<sup>a</sup> Between John Wollaston Citizen & Goldsmith of London of the one part and Cap<sup>t</sup> John Mason Esq<sup>r</sup> of the, other part Witnesseth that whereas y<sup>e</sup> Councill of New England by their Indenture under their Com'on Seale bearing date the 18<sup>th</sup> day of Aprill last past before the Date hereof made between y<sup>e</sup> Said Councill by y<sup>e</sup> Name of y<sup>e</sup> Councill Established at Plymouth in y<sup>e</sup> County of Devon for y<sup>e</sup> planting ordering ruling & Governing of New England in America of y<sup>e</sup> one part & y<sup>e</sup> Said John Wollaston by the name of John Wollaston Citizen & Goldsmith of London of the other part for the Considerac'ons in the same Indenture contained have demised granted and to Farme Letten unto the Said John Wollaston his Executors and Assignes, All that part purport and porc'on of the Maine Land of New England aforesaid beginning from the Middle part of Naumkeck River and from thence to proceed Eastwards along the Sea Coast to Cape Anne and round about the Same to Passcattaway Harbour and alsoe from Naumkeck through the River thereof upp into the Land West Sixty Miles from w<sup>ch</sup> period to Cross over Land to the Sixty Miles end accounted from Passcattaway through Newichewanock river to the Land Northwestwards aforesaid and alsoe all that the South half of the Isles of Shoalds togeather with all other Islands & Isletts as well imbaid as within ffive Leagues distance from the p'mises and abutting upon the Same or any part or parcell thereof not otherwise granted to any by Speciall Name, And togeather also with all woods underwoods and trees now Standing, growing & being, or w<sup>ch</sup> hereafter Shall or may stand grow or bee in and upon the Said Porc'ons of Lands & other the Premises All w<sup>ch</sup> part & porc'ons of Lands Islands and premises are from thence forth to be called by the Name of Newhampshire. And whereas alsoe the Said Councill for the considerac'ons aforesaid have demised granted & to farme Letten unto the said John Wollaston his Exec<sup>rs</sup> and Assignes all that other parcell or porc'on of Lands woods & wood grounds lying on the Southeast part of the River of Sagadahock in New England aforesaid at the mouth or entrance thereof containing & to containe there, Ten Thousand Acres togeather also with all the woods underwoods & trees of the same w<sup>ch</sup> said other parcell of Lands from thenceforth is to be called by the name of Masonia. And Whereas moreover the Said Councill for the Considerac'ons aforesaid have demised granted & to Farme letten unto the Said John Wollaston his Executors and Assignes together with the Said Lands Islands and premises all the Soyles, grounds, havens, Ports, Rivers waters, ffishings, Mines, & Mineralls as well Royall Mines of Gold and Silver as other Mines & Mineralls pretious Stones Quarries and all and Singular other Comodities, Jurisdictions Royalties privileges ff ranchises and preheminences both within the said Tracts of

\* New Hampshire State Papers, XXIX, Vol. VI, pp. 66-69.

Land upon the maine, & alsoe within the Said Islands or any the Said demised premises. And also all rents reserved upon the premises or any part or Parcell thereof perquisitts & profitts of Courts Deodands waives & strayes goods of felons & fugitives escheats & all other casuall profitts whatsoever arising or which may hereafter arise out of the Said Demised premises or out of any part or parcell thereof under Such reservac'ons as in the Said Lease are excepted & reserved To have & to hold & enjoy all & Singular the Said Lands Islands and all other the Said Demised premises with their & every of their appurten'ces unto the Said John Wollaston his Execut<sup>rs</sup> and assignes from the Day of the Date of the Said Indenture of Demise unto the full end & demise of three thousand yeares from thenceforth next & immediatly ensuing & fully to bee compleated & ended without impeachment of any manner of wast for and under the yearly Rent of one pepper Corne payable if it be Lawfully Demanded as in & by the said Indenture of Demise more at large it doth & may appeare which said Indenture of Demise was made unto the said John Wollaston by & with the consent of the Said Cap<sup>t</sup> John Mason in trust only for the benefit & behoofe of him the said Cap<sup>t</sup> John Mason his Executors & Assignes, Now therefore this Indenture further witnesseth That the Said John Wollaston in pformance of the Trust in him reposed & also for divers other good causes & considerac'ons him hereunto especially moving hath granted assigned lett over & confirmed & by these p'sents doth grant assigne lett over & confirme unto y<sup>e</sup> said Cap<sup>t</sup> John Mason his Executors & Assignes All that the Said part purport & porc'on of Lands called New Hampshire & all & Singular other the said Demised premises with their & every of their appurtenances in y<sup>e</sup> said Indenture contained Together with the said recited Indenture of Demise and all y<sup>e</sup> right title Interest terme of yeares Claime & demand of him the Said John Wollaston of in & to y<sup>e</sup> Same or any part or parcell thereof & all the benefitt profit advantage & Com'odity whatsoever which shall or may bee had by the same, To have hold & Enjoye the Said part purport & porc'on of Lands called New Hampshire & all & Singular other the Said premises with their & every of their appurten'ces and also all the right title and interest of the Said John Wollaston of in & to the same or any part or parcell thereof unto the said Cap<sup>t</sup> John Mason his Execut<sup>rs</sup> and Assignes from the day of the Date of these p'sents for and During all y<sup>e</sup> residue of the Terme of Three thousand yeares yet to come an unexpired in y<sup>e</sup> same for and under the reservac'ons of Rents in the said recited Indenture contained as fully freely & in as large ample & beneficiall Manner and forme to all intents & purposes whatsoever as he the said John Wollaston his Execut<sup>rs</sup> and assignes or any of them may might or ought to have hold & enjoye the same by vertue of the recited Indenture of Demise or otherwise In witness whereof the said partyes to these p'sent Indentures interchangeably have sett their hands & Seales the Day & yeare first above written.

**GRANT OF THE PROVINCE OF NEW HAMPSHIRE TO MR. MASON,  
22 APRILL, 1635, BY THE NAME OF MASONIA \***

To all Christian people unto whome these p<sup>r</sup>nts shall come The Councill for y<sup>e</sup> affaires of New England in America send greeting in our Lord God ever lasting Whereas our late Soveraigne Lord King James of blessed memory by his Highness Le<sup>r</sup>s patents under y<sup>e</sup> great seal of England beareing date at Westminster y<sup>e</sup>, third day of Novembr<sup>r</sup> in y<sup>e</sup> Eighteenth year of his Raigne over his Highness Realme of England for y<sup>e</sup> Considerac<sup>o</sup>ns in y<sup>e</sup> s<sup>d</sup> Le<sup>r</sup>s patents exp<sup>r</sup>esed and declared hath absoelutely given granted & confirmed unto y<sup>e</sup> s<sup>d</sup> Councill & their Successors for ever All y<sup>e</sup> land of New England in America lying & being in breadth from fourty degrees of Northerly latitude from y<sup>e</sup> Equinoctiall line to fourty Eight Degrees of y<sup>e</sup>, s<sup>d</sup> Northerly latitude inclusively & in length of & w<sup>th</sup>in all y<sup>e</sup> breadth afores<sup>d</sup> from Sea to Sea together alsoe w<sup>th</sup> all y<sup>e</sup> firme lands soyles ground havens ports rivers waters ffishings mines & Mineralls as well Royal mines of Gold and Silver as other mines minerals pretious stones quarreys & all & singular other comodityes Jurisdicc<sup>o</sup>ns Royaltys priviledges ff ranchises & preheminences both w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> tract of land upon y<sup>e</sup> maine & alsoe w<sup>th</sup>in y<sup>e</sup> Islands and seas adjoyning as by y<sup>e</sup> s<sup>d</sup> Le<sup>r</sup>s pattents amonst diverse other things therein contained more at large it doth & may appeare now knowe all men by these p<sup>r</sup>nts y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> Councill of New England in America being assembled in publique Court according to an act made & agreed upon y<sup>e</sup> third day of ff<sup>e</sup>br<sup>r</sup> last past before y<sup>e</sup> date of, these p<sup>r</sup>nts for divers good causes & considerac<sup>o</sup>ns them therunto especially moveing haveing granted aliened bargained & sould & in & by these p<sup>r</sup>nts doe for them & their successors give grant alien bargain sell & confirme unto Cap<sup>t</sup> Jo<sup>n</sup> Mason Esq<sup>r</sup> his heires & assigness All y<sup>t</sup> part of y<sup>e</sup> maine land of New England afores<sup>d</sup> being from y<sup>e</sup> middle part of Naumkeck river & from thence to proceed, East wards along y<sup>e</sup> sea Coast to Cape Anne & round about y<sup>e</sup> same to passcattaway harbour & soe forwards up w<sup>th</sup>in y<sup>e</sup> river of Newickewanock & to y<sup>e</sup> farthest head of y<sup>e</sup> said river & from thence Northwards till six miles be finshed from y<sup>e</sup> first entrance of passcattaway harbour & asoe from Naumkeck through y<sup>e</sup> river thereof up into y<sup>e</sup> land west Sixty miles from w<sup>ch</sup> period to crose over land to y<sup>e</sup> sixty miles end accounted from passcattaway through Newickewanock river to y<sup>e</sup> land north west afores<sup>d</sup> & alsoe all y<sup>t</sup> y<sup>e</sup> south half of y<sup>e</sup> Isles of Sholds all w<sup>ch</sup> lands w<sup>th</sup> y<sup>e</sup> consent of y<sup>e</sup> Councill shall from henceforth be called New Hampshire & alsoe tenn thousand acres more of land in New England afores<sup>d</sup> on y<sup>e</sup> south east part of Sagahahock at y<sup>e</sup> mouth & enterance thereof from henceforth to be called by y<sup>e</sup> name of Masonia together w<sup>th</sup> all & singular havens Harbours creekes & Islands imbaid & all Islands & Isletts lying w<sup>th</sup>in five leagues distance of y<sup>e</sup> maine land opposit & abutting upon y<sup>e</sup> premises or any part thereof not formerly lawfully granted to any by speciall name and all mines mineralls quarreys soyles & woods marshes rivers waters lakes fishings hawk-

\* Hazard's Historical Collections, I. 384-387. New Hampshire State Papers, XXIX, vol. VI, 64-66.

ing hunting & fowling & all other Royalties Jurisdictions priviledges preheminance proffitts comodities & hereditaments w<sup>th</sup> all & singular their & every of their appurtenances & together alsoe w<sup>th</sup> all rents reserved & y<sup>e</sup> benefitt of all proffitts due to y<sup>e</sup> S<sup>d</sup> Councill & their successors w<sup>th</sup> y<sup>e</sup> power of Judicature in all causes & matters w<sup>th</sup>soever as well criminall capitall & civill ariseing or w<sup>ch</sup> may hereafter arise w<sup>th</sup>in y<sup>e</sup> limits bounds & percincts aforesaid to be exercised & executed according to y<sup>e</sup> laws of England as near as can be by y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> John Mason his heires & assignes or his or their Deputies Lieutenants Judges Stewards or officers thereunto by him or them assigned deputed or oppointed from time to time w<sup>th</sup> all other priviledges franchises liberties imunities escheats & casualtyes thereof arising or w<sup>ch</sup> shall or may hereafter arise w<sup>th</sup>in y<sup>e</sup> said limitts & precincts w<sup>th</sup> all y<sup>e</sup> interest right title claime & demand w<sup>t</sup> soever w<sup>ch</sup> y<sup>e</sup> s<sup>d</sup> Councill & their Successors now of right have or ought to have or claime or may have or aquire heerafter in or to y<sup>e</sup> s<sup>d</sup> porc'ons of lands Islands or any of y<sup>e</sup> premises & in as free large ample & beneficiall man'er to all intents construcc'ons & purposes w<sup>t</sup> soever as y<sup>e</sup> s<sup>d</sup> Councill by vertue of his Maj<sup>ty</sup> s<sup>d</sup> letters pattents may or can grant y<sup>e</sup> same saveing & allawayes reserving unto y<sup>e</sup> s<sup>d</sup> Councill & their Successors power to receive heare & determine & singular appeal and appeales of every person & persons w<sup>t</sup> soever dewelling or inhabiting w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> territoryes & Islands or any part thereof soe granted as afores<sup>d</sup> & from all Judgem<sup>ts</sup> & sentences w<sup>t</sup> soever given w<sup>th</sup>in y<sup>e</sup> s<sup>d</sup> lands & territoryes afores<sup>d</sup> To have & to hold all & singular y<sup>e</sup> lands & premises above by these p'nts granted except before excepted w<sup>th</sup> all & all man'er of proffitts comodities and hereditam<sup>ts</sup> w<sup>t</sup> soever w<sup>th</sup>in y<sup>e</sup> lands & precincts afores<sup>d</sup> or to y<sup>e</sup> s<sup>d</sup> lands Islands & premises or any part of them in any wise belonging or appertaining unto y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> J<sup>o</sup> Mason his heires & assigness for ever To y<sup>e</sup> only proper use & behoofe of him y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> J<sup>o</sup> Mason his heires & assignes for ever To be holden of y<sup>e</sup> s<sup>d</sup> Councill & their successors ¶ Gladium com'itatus y<sup>t</sup> is to say by finding four able men conveniently armed & arraied for y<sup>e</sup> warr to attend upon y<sup>e</sup> Governo<sup>r</sup> of New England for y<sup>e</sup> publique Service w<sup>th</sup>in fourteen dayes after warning given yeelding & paying unto y<sup>e</sup> s<sup>d</sup> Councill & their successors for ever one fifth of all y<sup>e</sup> oar of y<sup>e</sup> mines of Gold & Silver w<sup>ch</sup> shalbe had possessed or obtained w<sup>th</sup>in y<sup>e</sup> limitts or percincts afores<sup>d</sup> for all rents services dutys & demands w<sup>t</sup> soever due unto y<sup>e</sup> s<sup>d</sup> Councill & their Successors from any plantation w<sup>th</sup>in the precincts afores<sup>d</sup> y<sup>e</sup> same to be delivered unto his Ma<sup>ty</sup> Receiver his deputie or deputies assigned for y<sup>e</sup> receipt thereof To y<sup>e</sup> use of his Ma<sup>ty</sup> his heires & Successors from time to time w<sup>th</sup>in y<sup>e</sup> lands precincts & territoryes of New England afores<sup>d</sup> And last y<sup>e</sup> s<sup>d</sup> Councill have deputed authorized & appointed & in their place & stead have putt Henry Jaseline Esq<sup>r</sup> & Ambrose Gibbins gent or either of them to be their true & lawfull Attorney & attorneys for them & in their name & stead to enter into y<sup>e</sup> s<sup>d</sup> lands & other y<sup>e</sup> premises w<sup>th</sup> their appurtenances or into any part thereof in y<sup>e</sup> name of y<sup>e</sup> whole & to take quiet & peacable possession & sezing thereof and after such possession & sezing soe had & taken as afores<sup>d</sup> then to deliver y<sup>e</sup> same unto y<sup>e</sup> s<sup>d</sup> Cap<sup>t</sup> Jo<sup>n</sup> Mason his heires or assignes or to his or their certaine attorney or attornies to be by him or them deputed on y<sup>r</sup> behalfe according to y<sup>e</sup> purport true



intent and meaning of these p<sup>nts</sup> In wittness whereof they y<sup>e</sup> s<sup>d</sup> Councill have heerunto affixed their com'on seale dated y<sup>e</sup> two & twentieth day of Aprill in y<sup>e</sup> Eleaventh year of his Raigne of Sovereigne Lord Charles by y<sup>e</sup> grace of God King of England Scotland ffraunce & Ireland Defender of y<sup>e</sup> faith &c Anno Dom' 1635

[NOTES.—Contrary to the title of the above grant, the name "Masonia" is not applied to the territory of New Hampshire, but to a tract of ten thousand acres of land in Maine, granted by the same document. New Hampshire was granted by its present name.—OTIS G. HAMMOND.

I am indebted to Hon. A. S. Batchellor, Editor of the New Hampshire State Papers, for extended courtesies, and for accurate coples of New Hampshire charters.—*Editor.*]

**GRANT OF THE PROVINCE OF NEW HAMPSHIRE TO MR. MASON,  
22 APR., 1635, BY THE NAME OF NEW HAMPSHR \***

This Indenture made the two and twentieth Day of Aprill in the 11<sup>th</sup> yeare of the Reigne of Our Sovereigne Lord Charles by y<sup>e</sup> Grace of God King of England, Scotland, ffraunce, & Ireland Defender of the ffaith &c<sup>a</sup> Between the Councill Established at Plymouth in the County of Devon for the planting ordering ruling & Governing of New England in America of y<sup>e</sup> one part and Cap<sup>t</sup> John Mason Esquire of the other part Witnesseth that whereas our late Sovereigne Lord King James of Blessed Memory by his Highnes Letters Pattents under the great Seale of England bearing date at Westminster the 3<sup>d</sup> day of November in the 18<sup>th</sup> yeare of his highnesse Reigne over the Realme of England for the considerac'ons in the Same Letters Pattents expressed hath absolutely given granted and confirmed unto the Said Councill & their Successo<sup>rs</sup> for ever all the Land of New England in America lying and being in breadth from 40 Degrees of Northerly latitude from y<sup>e</sup> Equinoctiall Lyne to 48 Degrees of the Said Northerly Latitude inclusively, & in length of & w<sup>th</sup>in all y<sup>e</sup> breadth aforesaid throughout y<sup>e</sup> Maine Land from Sea to Sea togeather alsoe with all firme Lands Soyles, grounds havens Ports rivers waters ffishings, Mines & mineralls as well Royall Mines of Gold & Silver as other Mines & Mineralls, pretious, Stones, quarries and all and Singular other Comodityes Jurisdictions Royalties ff ranchises & preminences both within the Said Tract of Land upon the Maine and also w<sup>th</sup>in the Islands & Seas adjoyning as by the Said Letters Pattents amongst divers other things therein contained more at large it doth & may appeare Now this Indenture further Witnesseth that y<sup>e</sup> Said Councill in pformance of an agreement made by & between themselves & enacted the third day of ffbruary last past before the Date of these p<sup>s</sup>ents for a Competent Sume of Monev, & alsoe for divers other good causes & considerac'ons them y<sup>e</sup> Said Councill hereunto especially moveing have given granted bargained Sold enfeoffed & confirmed and by these p<sup>s</sup>ents doe give grant bargain Sell enfeoffe and confirme unto the Said Captain John Mason his heires and assignes all that part purpart & porc'on of y<sup>e</sup> Maine land of New England aforesaid begining from the middle part of

Naumkeck River & from thence to proceed Eastwards along the Sea Coast to Cape Anne and round about the Same to passcattaway Harbour and soe forward up within y<sup>e</sup> River of Newichwanock and to y<sup>e</sup> farthest head of the Said River & from thence Northwestward till Sixty Miles be finished from y<sup>e</sup> first entrance of Passcattaway harbour & alsoe from Naumkek through the River thereof up into the land West Sixty Miles from which period to Crosse over Land to the Sixty Miles end accounted from Passcattaway through Newichwanock River to the Land Northwestward aforesaid & also all that the South half of the Isles of Shoulds together w<sup>th</sup> all other Islands, & Isletts as well imbaidd as within 5 Leagues distance from the premisses & abuting upon the same or any part or parcell thereof not otherwise granted to any by Speciaall Name All which part & porc'on of Lands Islands and premises are from henceforth to be called by the Name of New Hampshire & also the Councill for y<sup>e</sup> considerac'on aforesaid have given granted bargained Sold enfeoffed & confirmed & by these p<sup>nts</sup> doe give grant bargain Sell enfeoffe & confirme unto y<sup>e</sup> s<sup>d</sup> John Mason his heires & assignes all that other parcell or porc'on of Lands woods & wood grounds Lying on y<sup>e</sup> South east part of the river of Sagadahock in New England aforesaid at the mouth or entrance thereof containing & to containe there Ten Thousand Acres w<sup>ch</sup> said other parcell of Lands from henceforth is to be called by y<sup>e</sup> name of Masonia. And moreover the Said Councill for y<sup>e</sup> considerac'ons aforesaid have given granted bargained Sold enfeoffed & confirmed & by these p<sup>sents</sup> doe give grant bargain Sell enfeoffe & confirme unto y<sup>e</sup> said Captaine John Mason his heires & assignes together w<sup>th</sup> the said bargained p<sup>misses</sup> all y<sup>e</sup> firme Lands Soyles Grounds havens Ports Rivers waters ffishings Mines and Mineralls as well Royall Mines of Gold & Silver as other Mines & Mineralls pretious Stones quaryes & all & Singular other Com'odities Jurisdictions Royalties priviledges ff ranchises & preheminences both w<sup>th</sup>in the Said Tracts of Lands upon the Maine and alsoe with y<sup>e</sup> Islands & Seas adjoyning Saving excepting and reserving out of this p<sup>sent</sup> Grant only y<sup>e</sup> fifth part of all y<sup>e</sup> Oare of Gold and Silver due to his Ma<sup>ty</sup> his heires and Successors and in & by y<sup>e</sup> Said recited Letters Pattents reserved To have & to hold all Those the said severall parcells of Land and all other y<sup>e</sup> said bargained premises w<sup>th</sup> their and every of their appurtenences Except before Excepted unto y<sup>e</sup> Said Cap<sup>t</sup> John Mason his heires & assignes to y<sup>e</sup> only & proper use and behoofe of him y<sup>e</sup> said Cap<sup>t</sup> John Mason his heires & assignes forever. And to bee Enjoyed as fully freely & in as Large ample and beneficiall Manner & forme to all Intents & purposes whatsoever as they the Said Councill & their Successors by vertue of y<sup>e</sup> Said recited Letters Pattents may might or ought to have hold & enjoy the same or any part or parcell thereof In witnes whereof to one part of this p<sup>sent</sup> Indenture remaing in y<sup>e</sup> hands of y<sup>e</sup> said Cap<sup>t</sup> John Mason they y<sup>e</sup> Said Councill have affixed their com'on Seale to y<sup>e</sup> other part of this p<sup>sent</sup> Indenture remaining in y<sup>e</sup> hands of y<sup>e</sup> Said Councill the Said Cap<sup>t</sup> John Mason hath Sett his hand and seale dated y<sup>e</sup> Day & yeare first above written Annoq<sup>i</sup> Dom' 1635

**AGREEMENT OF THE SETTLERS AT EXETER IN NEW HAMPSHIRE,  
1639 <sup>a</sup>**

Whereas it hath pleased the Lord to move the Heart of our dread Sovereign Charles by the Grace of God King &c. to grant Licence and Libertye to sundry of his subjects to plant themselves in the Westernne parts of America. We his loyal Subjects Brethern of the Church in Exeter situate and lying upon the River Pascataqua with other Inhabitants there, considering with ourselves the holy Will of God and our own Necessity that we should not live without wholesome Lawes and Civil Government among us of which we are altogether destitute; do in the name of Christ and in the sight of God combine ourselves together to erect and set up among us such Government as shall be to our best discerning agreeable to the Will of God, professing ourselves Subjects to our Sovereign Lord King Charles according to the Libertyes of our English Colony of Massachusetts, and binding of ourselves solemnly by the Grace and Help of Christ and in His Name and fear to submit ourselves to such Godly and Christian Lawes as are established in the realm of England to our best Knowledge, and to all other such Lawes which shall upon good grounds be made and enacted among us according to God that we may live quietly and peaceably together in all godliness and honesty. Mo. 8. D. 4. 1639 as attests our Hands.

[35 signatures follow.]

**THE COMBINATION OF THE INHABITANTS UPON THE PISCATA-  
QUA RIVER FOR GOVERNMENT, 1641 <sup>b</sup>**

Whereas sundry Mischiefs and Inconveniencies have befallen us, and more and greater may, in regard of want of Civill Government, his gracious Majesty haveing settled no order for us, to our knowledge, wee shose names are underwritten, being Inhabitants upon the River of Pascataqua have voluntary agreed to combine ourselves into a body Politick, that wee may the more comfortably enjoy the Benefit of his Majesties Laws, and doe hereby actually engage ourselves to submit to his Royall Majesties Laws, together with all such Laws as shall be concluded by a major part of the Freemen of our Society, in Case they be not repugnant to the laws of England, and administered in behalf of his Majestie And this wee have mutually promised, and engaged to doe, an so to continue till his excellent Majestie shall give other orders concerning us. In witness whereof Wee have hereunto set our hands, October 22. In the 16 year of the Reigne of our Sovereigne Lord, Charles by the grace of God, King of Great Brittain, France and Ireland, Defender of the Faith, &c.

Subscribed by

THOMAS LARKHAM,  
RICHARD WALDRENE,  
WILLIAM WALDRENE, with 38 more.

<sup>a</sup> Historical Collections: Consisting of State Papers, etc. By Ebenezer Hazard. (Philadelphia, MDCCXCII), Vol. I, p. 463.

<sup>b</sup> Ibid., pp. 486, 487.

[COMMISSION OF JOHN CUTT, 1680]\*<sup>a</sup>

The Com'ission constituting a President & Councell for y<sup>e</sup> Province of New-Hampshire in New-England

Charles y<sup>e</sup> Second, &c, To all to whom these p'sents shall come Greeting

Whereas Our Colony of y<sup>e</sup> Massachusetts al<sup>a</sup> Mattachusetts Bay in New-England in America, have taken upon themselves to exercise a Government & Jurisdiction, over y<sup>e</sup> Inhabitants & Planters in y<sup>e</sup> Towns of Portsmouth, Hampton, Dover Excester, & all other y<sup>e</sup> Towns & lands in y<sup>e</sup> Province of New-Hampshire, lying & extending from three miles northward of Merrimack River, or any part thereof to y<sup>e</sup> Province of Maine, not having any legall right or authority so to do: Which said Jurisdiction & all further exercise thereof, We have thought fit by the advice of Our Privy Council to inhibit & restrain for the future; And do hereby inhibit and restrain y<sup>e</sup> same. And whereas y<sup>e</sup> Government of y<sup>t</sup> part of the said Province of New-Hampshire, so limited & bounded as aforesaid hath not yet bin granted unto any person or persons whatsoever but y<sup>e</sup> same still remains & is under Our im'ediate care & protection; To the end therefore, y<sup>t</sup> Our loving Subjects, y<sup>e</sup> Planters and Inhabitants within y<sup>e</sup> limits aforesaid, may be protected and Defended in their respective rights, liberties & properties, & y<sup>t</sup> due & impartiall Justice may be duly administred in all cases civill & criminall; & y<sup>t</sup> all possible care may be taken for y<sup>e</sup> quiet & orderly Government of y<sup>e</sup> same: Now know ye, that We by & with y<sup>e</sup> advice of Our Privy Councell, have thought fit to erect, & constitute, & by these p'sents for us o<sup>r</sup> hrs & success<sup>rs</sup> do erect constitute & appoint a President & Councell, to take care of y<sup>e</sup> said Tract of land called The Province of New-Hampshire, & of the Planters & Inhabitants thereof; & to Order, rule & Govern y<sup>e</sup> same according to such methods & regulations, as are herein after specified & declared. And for y<sup>e</sup> better execution of Our Royall pleasure in this behalf, We do hereby nominate & appoint Our trusty & well beloved Subject John Cutt of Portsmouth Esq<sup>r</sup> to be y<sup>e</sup> first President of y<sup>e</sup> said Councell, & to continue in y<sup>e</sup> said Office for the space of one whole year next ensuing y<sup>e</sup> date of these p'sents & so long after untill We, Our heirs or successors, shall nominate & appoint some other person to succeed him in y<sup>e</sup> same. And We likewise nominate & appoint Our trusty & well beloved subjects Rich: Martin Esq<sup>r</sup> William Vaughan Esq<sup>r</sup>, & Tho. Daniel Esq<sup>r</sup>, all of Portsmouth aforesd John Gilman of Exceter aforesd Esq<sup>r</sup>, Christoph<sup>r</sup> Hussey of Hampton aforesd Esq<sup>r</sup> & Rich: Walden of Dov<sup>r</sup> aforesd Esq<sup>r</sup> to be of the Councell within y<sup>e</sup> said Province of New-Hampshire: And we do hereby authorize and appoint, the said President & Councell to nominate & make choice of three other persons out of y<sup>e</sup> severall parts of the said Province, whom they shall judg to be most fitly qualified To be of y<sup>e</sup> said Councell, & to swear them into y<sup>e</sup> same: And y<sup>t</sup> the said Jo: Cutt, & every succeeding President of y<sup>e</sup> said Councell, shall nominate & appoint any one of the members of the said Councell for

\* Laws of New Hampshire, I. 1679-1702, pp. 1-8.

<sup>a</sup> This commission "marks the formal beginning of constitutional government in New Hampshire"—Colby's *Manual of the Constitution of the State of New Hampshire*, p. 61.

y<sup>e</sup> time being, to be his Deputy, & to p<sup>r</sup>side in his absence And y<sup>t</sup> the said President, or his Deputy, & any five of the said Co<sup>n</sup>cell shall be a Quorum. And Our express will & pleasure is, That no person shall be admitted to sit, or have a vote in the said Councell till he have taken y<sup>e</sup> oath of allegiance; & supremacy, & y<sup>e</sup> oath herein after mentoned, for y<sup>e</sup> due & impartiall execut<sup>i</sup>on of Justice, & y<sup>e</sup> faithfull discharge of y<sup>e</sup> trust in them reposed: Which Oaths We do hereby authorize & direct y<sup>e</sup> said Ric: Martin W: Vaughan T: Daniel; Jo: Gilman Christ: Hussey R: Waldren, or any three of them first to administer to y<sup>e</sup> said Jo: Cutt y<sup>e</sup> President, and y<sup>e</sup> said Jo: Cutt having taken said Oaths, We do will, authorize & require him y<sup>e</sup> said Pres: for y<sup>e</sup> time being, to administer y<sup>e</sup> same from time to time to all & every other the members of y<sup>e</sup> said Councell. And We do hereby will, require & com<sup>a</sup>nd y<sup>e</sup> said Jo: Cutt R: M: &c & every of them, to whom this Our pleasure shall be made known, That, all excuses whatsoever set ap<sup>t</sup>, they fail not to assemble & meet together at y<sup>e</sup> sd Town of Portsm<sup>o</sup> in y<sup>e</sup> Prov: of New Hampsh: aforesd within y<sup>e</sup> space of 20 days, next after y<sup>e</sup> arrivall of this Our Com<sup>i</sup>ssion at Portsm<sup>o</sup> aforesaid; & there to cause this Our Com<sup>i</sup>ssion, or Letters Patents, to be read before them, or as many of them as shall be there assembled: & having first duly taken the said Oaths, to proceed to choose, nominate & appoint such Officers & serv<sup>ts</sup> as they shall think fit & necessary for their service: And also to appoint such other time & place for their future meeting, as they or y<sup>e</sup> major part of them, (whereof y<sup>e</sup> Pres. or his deputy to be one) shall think fit & agreeable. And Our Will & pleasure is, That Our said Councell shall from time to time have & use such Seal only, for y<sup>e</sup> sealing of their Acts, Orders & proceedings, as shall be sent unto them by Us, Our heirs & successors, for y<sup>t</sup> purpose. And We do by these p<sup>r</sup>ts, for Us Our heirs & successors, constitute, establish, declare & appoint Our said Pres. & Councell & their successors for y<sup>e</sup> time being, to be a constant & settled Court of record, for y<sup>e</sup> administrac<sup>i</sup>on of Justice to all Our subjects inhabiting within y<sup>e</sup> limits aforesaid, in all causes, as well criminal as civill; & y<sup>t</sup> y<sup>e</sup> Pres: & any 5 of the Councell for y<sup>e</sup> time being shall have full power & authority, to hold plea in all causes from time to time, as well in pleas of y<sup>e</sup> Crown, as in matters relating to y<sup>e</sup> conservation of y<sup>e</sup> peace, & punishment of offenders, as in civill suits & actions between partie & partie; or between Us & any of Our subjects there; whether y<sup>e</sup> same do concern y<sup>e</sup> realty, & relate to a right of freehold & inheritance, or whether y<sup>e</sup> same do concern y<sup>e</sup> personalty, & relate to some matter of debt, contract, damage, or other personal injury; & also in all mixt actions, w<sup>ch</sup> may concern both realty & personalty and therein after due & orderly proceeding, & deliberate hearing on both sides, to give Judgm<sup>t</sup>, to award execut<sup>i</sup>on, as well in criminall as in civill causes as aforesaid: so always, y<sup>t</sup> y<sup>e</sup> forms of proceeding in such cases, & y<sup>e</sup> Judgm<sup>t</sup> thereupon to be given, be as consonant, & agreeable to y<sup>e</sup> Laws & Statutes of this Our Realm of Engd, as y<sup>e</sup> p<sup>r</sup>sent state & condic<sup>i</sup>on of Our subjects inhabiting within y<sup>e</sup> limits aforesaid, & y<sup>e</sup> circumstances of y<sup>e</sup> place will admit. And y<sup>e</sup> Pres: & Councell for y<sup>e</sup> time being, & every one of them respectively, before they be admitted to their severall & respective offices & charges, shall also take this Oath following. You shall swear, well and truly to administer Justice to all his Ma<sup>ties</sup> good subjects, inhabiting within y<sup>e</sup> Prov-



ince of New-Hampsh: under this Government: & also duly & faithfully to discharge & execute y<sup>e</sup> Trust in you reposed, according to the best of your knowledg; you shall spare no person for favour or affection; nor any person grieve for hatred or ill will. So help you God. *Notwithstanding* it is Our will & pleasure, & so we do hereby expressly declare, y<sup>t</sup> it shall & may be lawfull from time to time, to & for all & every person & persons, who shall think him or themselves aggrieved by any sentence, Judgm<sup>t</sup> or Decree pronounced, given or made (as aforesaid) in, about or concerning y<sup>e</sup> title of any land, or other reall estate or in any personall Action, or suit above the value of 50<sup>l</sup> and not under, to appeal from such Judgm<sup>t</sup> sentence, & Decree unto Us, Our heirs & successors, & Our & their Privie Councell: But with and under this caution & limitac'on; That y<sup>e</sup> Appellant shall first enter into, & give good security, to pay full costs, in case no relief shall be obtained upon such Appeal. *And* Our further will & pleasure is & so we do hereby declare; That in all criminall cases, where y<sup>e</sup> punishm<sup>t</sup> to be inflicted upon y<sup>e</sup> offenders, shall extend to loss of life or limb (y<sup>e</sup> case of willfull murder only excepted) y<sup>e</sup> pty convicted shall either be sent over into this Our Kingdom of Engd, with a true state of his case & conviction; or execut'on shall be respited untill y<sup>e</sup> case shall be here represented unto Us, Our heirs & successors, in Our & their Privie Councell, and Orders sent, & returned therein. *And* for y<sup>e</sup> better defence and security of all Our loving subjects within y<sup>e</sup> Province of New-Hampsh. and y<sup>e</sup> bounds & limits aforesaid, Our further will & pleasure is, and hereby we do authorize, require & com'and y<sup>e</sup> said Pres: & Councell for the time being, in Our name & under the seal by Us appointed to be used, to issue forth & give Com'issions from time to time, to such psen & persons, whom they shall judg shall be best qualified for regulation & discipline of y<sup>e</sup> militia of Our said Province; & for y<sup>e</sup> arraying and mustering y<sup>e</sup> Inhabitants thereof; & instructing them how to bear and use their arms; & that care be taken, that such good discipline shall be observed, as by y<sup>e</sup> said Councell shall be p<sup>r</sup>scribed; & y<sup>t</sup> if any invasions shall at any time be made, or other destruction, detriment, or an'oyance made or done by Indians, or others upon or unto Our good subjects inhabiting within y<sup>e</sup> said Prov: of New H: We do by these p<sup>r</sup>sents, for Us Our heirs & successors, declare, Ordaine & grant, that it shall & may be lawfull to & for Our said subjects, so com'issionated by Our said Councell from time to time, & at all times for their speciall defence & safety, to encounter, expell, repell, & resist by force of arms, & all other fitting ways & means whatsoever, all & every such person & persons, as shall at any time hereafter attempt or enterprize y<sup>e</sup> destruction invasion detriment or an'oyance of any of Our said loving subjects, or their plantations or estates. And above all things we do by these p<sup>r</sup>sents will, require & comand Our said Councell to take all possible care for y<sup>e</sup> discountenancing of vice, & encouraging of vertue & good living; that by such examples y<sup>e</sup> infidel may be invited & desire to partake of y<sup>e</sup> Christian Religion, & for y<sup>e</sup> greater ease & satisfacc'on of o<sup>r</sup> s<sup>d</sup> loving subjects in matters of Religion We do hereby will, require & com'and y<sup>t</sup> liberty of conscience shall be allowed unto all protestants; & y<sup>t</sup> such especially as shall be conformable to y<sup>e</sup> rites of y<sup>e</sup> Church of Engl<sup>d</sup>, shall be particularly countenanced & encouraged. *And* further We do by these p<sup>r</sup>sents, for Us, Our heirs & successors, give & grant unto y<sup>e</sup> said Councell & their

successors for y<sup>e</sup> time being, full & free liberty, power, and authority, to hear & Determine all emergencies, relating to the care & good Government of Our subjects within y<sup>e</sup> s<sup>d</sup> Prov: & also to sum'on & convene any person or persons before them & punish contempts; & to cause y<sup>e</sup> Oath of Allegiance to be administered to all & every person & persons, who shall be admitted to any Office, freedom, or preferments & likewise with what convenient speed they can, to cause proclamac'on to issue out & be made in Our name to y<sup>e</sup> inhabitants of y<sup>e</sup> s<sup>d</sup> Prov: of N: Hampsh: thereby signifying that We have taken them into Our im'ediate Governm<sup>t</sup> & gracious protection: & letting them further know, that We have written to y<sup>e</sup> Gov'nour & Councell of the Massachusetts bay, to recall all such Com'issions as they have granted for exercising any Jurisdiction in y<sup>e</sup> parts aforesaid and that we have inhibited & restrained them for y<sup>e</sup> future, from exercising any further authority or Jurisdiction over them. And further, y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> Inhabitants within y<sup>e</sup> said Prov: of N: Hamp: & limits aforesaid, do & shall from henceforth repair for Justice & redress unto them y<sup>e</sup> said Pres: & Councell, whom We have constituted & appointed to be a standing Court for administrac'on of Justice as aforesaid & intrusted them with y<sup>e</sup> care of their quiet & orderly Government and therefore requiring that they give obedience unto them: And Our will & pleasure is, that these, with such other generall intimations shall be given unto y<sup>e</sup> people, as by y<sup>e</sup> said Pres: & Councell shall be thought necessary. *And* for supporting the charge of the Government of y<sup>e</sup> said Prov: of N: Hamp: Our Will & pleasure is, & We do by these p'sents authorize, & require the said Pres: & Councell, to continue such taxes & impositions, as have bin, & are now laid & imposed upon the Inhabitants thereof; & y<sup>t</sup> they levy & distribute, or cause the same to be levied and distributed to those ends, in the best & most equall man'er they can untill a generall Assembly of y<sup>e</sup> s<sup>d</sup> Prov: shall be called, & other methods for y<sup>t</sup> purpose agreed upon. To which end Our Will & pleasure is, and We do by these p'ts authorize, require, & com'and y<sup>e</sup> said Pres: and Councell that they within 3 months after they have bin sworn (as aforesaid) do & shall issue forth Sum'ons under y<sup>e</sup> seal by Us appointed to be used in y<sup>e</sup> nature of writs for y<sup>e</sup> calling of a Generall Assembly of the said Prov: using & observing there such rules & methods (as to the persons who are to chuse their Deputies & y<sup>e</sup> time & place of meeting) as they shall judg most convenient. At the 1<sup>st</sup> meeting of which Gen<sup>l</sup> Assembly We do hereby will, authorize & require y<sup>e</sup> Pres: of y<sup>e</sup> said Councell, to mind them in y<sup>e</sup> generall, what is to be intimated in y<sup>e</sup> proclamac'on aforesaid: That he recom'end unto them y<sup>e</sup> making of such Acts, Laws, & Ordinances, as may most tend to y<sup>e</sup> establishing them in obedience to Our authority; their own p'servation in peace & good Governm<sup>t</sup> & defence against their enemies: & that they do consider of the fittest ways for y<sup>e</sup> raising of taxes, & in such proportion, as may be fit for y<sup>e</sup> support of y<sup>e</sup> Governm<sup>t</sup>. *And Our Will* & pleasure is, & We do hereby declare, ordain, & grant, That all & every such Acts, Laws & Ordinances, as shall from time to time be made in & by such generall Assembly or Assemblies shall be first approved & allowed by the Pres: & Councell for the time being, & thereupon shall stand & be in force, untill y<sup>e</sup> pleasure of Us Our heirs & successors shall be known, whether y<sup>e</sup> same Laws & Ordinances shall receive any change, or con-

firmation; or be totally disallowed & discharged. *And* therefore Our Will & pleasure is, That y<sup>e</sup> Pres: & Councell do & shall from time to time, transmit & send over unto Us Our heirs & successors, & Our & their Privie Councell for y<sup>e</sup> time being all & every such Acts, Laws & Ordinances, by the first ship y<sup>e</sup> shall depart thence for Engl<sup>d</sup> after their making. Also Our will & pleasure is & We do hereby direct & appoint, that if y<sup>e</sup> said Pres: of y<sup>e</sup> Councell shall happen to dye; that then from & after y<sup>e</sup> death of y<sup>e</sup> said Pres: his Deputy shall succeed him in y<sup>e</sup> Office of Pres: & shall & may nominate & choose any one of y<sup>e</sup> s<sup>d</sup> Councell to be his Deputy, to preside in his absence; & y<sup>e</sup> said Deputy so succeeding shall continue in y<sup>e</sup> said office of Pres: untill Our further will & pleasure be known therein & we shal think fit to nominate & appoint some other to succeed therein. And if any of y<sup>e</sup> members of y<sup>e</sup> said Councell shall happen to die, Our Will and pleasure is, & We do hereby direct & appoint y<sup>e</sup> remainder of y<sup>e</sup> Councell to elect some other person to be a member of y<sup>e</sup> said Councell for y<sup>e</sup> time being; & to send over the name of such person so chosen, & the names of two more, whom they shall judg fitly qualified for that imployment; that We Our heirs & successors may nominate & appoint, which of the three shall be y<sup>e</sup> member in y<sup>e</sup> place of such member so dying. And We do hereby declare, That We Our heirs & successors, shall & will observe & continue this method of grace & favour towards Our loving Subjects in convening them in their Assembly, in such man<sup>r</sup> & form as is herein before menc<sup>o</sup>ned & specified: unless by inconveniences arising from thence, We Our heirs or successors, shall see cause to alter y<sup>e</sup> same. And wheireas y<sup>e</sup> inhabitants of y<sup>e</sup> saide province of new hamshire have many of them bin long in posesion of Severall quantities of lands & are saide to have maide Considerable Improvements theire upon having noe other title for y<sup>e</sup> same then what hath bin derived from y<sup>e</sup> Government of the macithutets baye: in vertue of theire Imaginary line w<sup>ch</sup> titell as it hath by y<sup>e</sup> opinion of our Judges in England bin alltogether set aside soe y<sup>e</sup> agents from y<sup>e</sup> saide Colony have Consequently disowned any right ether in the Soyle or goverment thereof: from the three mile line aforesaide: & it appearing unto us that y<sup>e</sup> ansestors of Roberd Mason esquire obtained grants from our great Councill of plimoth for y<sup>e</sup> tract of land aforesaide & wheare at very greate expence upon y<sup>e</sup> same untill molested & finally driven oute which hath occasioned a lasting Complainte for Justice by y<sup>e</sup> said Roberd Mason ever Since our restoration: how ever to prevent in this case any unreasonable demands w<sup>ch</sup> mighte be made by the Saide Roberd Mason for y<sup>e</sup> rights he Claimeth in Saide soyle wee have obliged y<sup>e</sup> saide Roberd Mason under his hand & Seale to declare that he will demande nothing for y<sup>e</sup> time paste untill y<sup>e</sup> twenty fourth of June laste paste nor molest any in the posesions for y<sup>e</sup> time to come: but will [torn] to them & theire ayres for ever provided they will paye him upon a faire agreement in lew of all other Rents Six pence in y<sup>e</sup> pound according to y<sup>e</sup> Just and trew yearly valew: of all houses builte by them & of all lands whether gardens orchards arribell or pasture w<sup>ch</sup> have been Improved by them w<sup>ch</sup> he will agree Shall be bounded out unto eviry of y<sup>e</sup> partyes Conserved & that y<sup>e</sup> residu maye remaine unto himselfe to be disposed of for his best advanetadge—But not with standing this overturn from y<sup>e</sup> Saide Robert Mason w<sup>ch</sup> Semeth to be faire unto us any of y<sup>e</sup> Inhabitants of y<sup>e</sup> saide province of new ham-

shir Shall refuse to agree w<sup>th</sup> y<sup>e</sup> Agents of y<sup>e</sup> saide Roberd Mason upon y<sup>e</sup> terms aforesaide our will & pleasure is y<sup>t</sup> y<sup>e</sup> president & Counsill of new hamshire aforesaide for y<sup>e</sup> time being Shall have power & are hereby Impowered to Interpose & reconcile all Differanses if they can That Shall or maye arise betweene y<sup>e</sup> saide Roberd Mason & y<sup>e</sup> Saide Inhabitants but if they cannot then we doe hereby: Commande & requier the saide president & Counsill to send into England such Casses fairely & Imparsially stated together w<sup>th</sup> theire one opinions upon such Cases that we our ayres & Sucsesors by & with y<sup>e</sup> advice of our & there privy Counsill maye determin therein according to equity and Lastly our will & pleasure is that the saide president & Counsill for y<sup>e</sup> time being doe prepare & send into England such [torn] & methods for theire one prosedings as maye best suite with the Constitution of the saide province of newhamshire—for y<sup>e</sup> better establishing of Our authority theire and the goverment thereof that wee and our privi Councill maye examin & allter or aprove the same in witness whereof we have Caused these our letters to be made pattens witness our self at wesminster the 18<sup>th</sup> of September In the one and thirtieth yeare of our Reigne—

Peripsom Regem Barker—

[NOTE.—The foregoing commission of John Cutt was compounded from two mutilated copies, the most ancient in the possession of the state. The state does not possess the original commission, but these copies were apparently made soon after the date of the original.—OTIS, G. HAMMOND.]

## CONSTITUTION OF NEW HAMPSHIRE—1776 \* a

IN CONGRESS AT EXETER, *January 5, 1776.*

VOTED, That this Congress take up CIVIL GOVERNMENT for this colony in manner and form following, viz.

WE, the members of the Congress of New Hampshire, chosen and appointed by the free suffrages of the people of said colony, and authorized and empowered by them to meet together, and use such means and pursue such measures as we should judge best for the public good; and in particular to establish some form of government, provided that measure should be recommended by the Continental Congress: And a recommendation to that purpose having been transmitted to us from the said Congress: Have taken into our serious consideration the unhappy circumstances, into which this colony is involved by means of many grievous and oppressive acts of the British Parliament, depriving us of our natural and constitutional rights and privileges; to enforce obedience to which acts a powerful fleet

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\* Verified by "Acts and Laws of the State of New Hampshire in America, by order of The General Assembly. To which is prefixed, The Resolution of the American Congress for Establishing a Form of Government in New Hampshire; and the Resolve of the Provincial Congress, for taking up Government in Form. With the Declaration of Independence. America: Printed at Exeter in the State of New Hampshire, MDCCLXXX." pp. 2-4.

a This constitution was framed by a convention, or "congress," which assembled at Exeter, December 21, 1775, (in accordance with a recommendation from the Continental Congress,) and completed its labors January 5, 1776. The constitution was not submitted to the people. This was the first constitution framed by an American Commonwealth.



and army have been sent to this country by the ministry of Great Britain, who have exercised a wanton and cruel abuse of their power, in destroying the lives and properties of the colonists in many places with fire and sword, taking the ships and lading from many of the honest and industrious inhabitants of this colony employed in commerce, agreeable to the laws and customs a long time used here.

The sudden and abrupt departure of his Excellency John Wentworth, Esq., our late Governor, and several of the Council, leaving us destitute of legislation, and no executive courts being open to punish criminal offenders; whereby the lives and properties of the honest people of this colony are liable to the machinations and evil designs of wicked men, *Therefore*, for the preservation of peace and good order, and for the security of the lives and properties of the inhabitants of this colony, we conceive ourselves reduced to the necessity of establishing A FORM OF GOVERNMENT to continue during the present unhappy and unnatural contest with Great Britain; PROTESTING and DECLARING that we neaver sought to throw off our dependence upon Great Britain, but felt ourselves happy under her protection, while we could enjoy our constitutional rights and privileges. And that we shall rejoice if such a reconciliation between us and our parent State can be effected as shall be approved by the CONTINENTAL CONGRESS, in whose prudence and wisdom we confide.

Accordingly pursuant to the trust reposed in us, WE DO RESOLVE, that this Congress assume the name, power and authority of a house of Representatives or Assembly for the *Colony of New-Hampshire*. And that said House then proceed to choose twelve persons, being reputable freeholders and inhabitants within this colony, in the following manner, viz. five in the county of Rockingham, two in the county of Strafford, two in the county of Hillsborough, two in the county of Cheshire, and one in the county of Grafton, to be a distinct and separate branch of the Legislature by the name of a COUNCIL for this colony, to continue as such until the third Wednesday in December next; any seven of whom to be a quorum to do business. That such Council appoint their President, and in his absence that the senior counsellor preside; that a Secretary be appointed by both branches, who may be a counsellor, or otherwise, as they shall choose.

That no act or resolve shall be valid and put into execution unless agreed to, and passed by both branches of the legislature.

That all public officers for the said colony, and each county, for the current year, be appointed by the Council and Assembly, except the several clerks of the Executive Courts, who shall be appointed by the Justices of the respective Courts.

That all bills, resolves, or votes for raising, levying and collecting money originate in the house of Representatives.

That at any session of the Council and Assembly neither branch shall adjourn from any longer time than from Saturday till the next Monday without consent of the other.

*And it is further resolved*, That if the present unhappy dispute with Great Britain should continue longer than this present year, and the Continental Congress give no instruction or direction to the contrary, the Council be chosen by the people of each respective county in such manner as the Council and house of Representatives shall order.



That general and field officers of the militia, on any vacancy, be appointed by the two houses, and all inferior officers be chosen by the respective companies.

That all officers of the Army be appointed by the two houses, except they should direct otherwise in case of any emergency.

That all civil officers for the colony and for each county be appointed, and the time of their continuance in office be determined by the two houses, except clerks of Courts, and county treasurers, and recorders of deeds.

That a treasurer, and a recorder of deeds for each county be annually chosen by the people of each county respectively; the votes for such officers to be returned to the respective courts of General Sessions of the Peace in the county, there to be ascertained as the Council and Assembly shall hereafter direct.

That precepts in the name of the Council and Assembly, signed by the President of the Council, and Speaker of the house of Representatives, shall issue annually at or before the first day of November, for the choice of a Council and house of Representatives to be returned by the third Wednesday in December then next ensuing, in such manner as the Council and Assembly shall hereafter prescribe.<sup>a</sup>

## CONSTITUTION OF NEW HAMPSHIRE—1784 \* <sup>b</sup>

### PART I.—THE BILL OF RIGHTS

#### ARTICLE I

All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential, and inherent rights; among which are—the enjoying and defending life and liberty—

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\* “Early State Papers of New Hampshire, Including the Constitution of 1784, Journals of the Senate and House of Representatives, and Records of the President and Council from June 1784 to June 1787, with an Appendix Containing an Abstract of the Official Records Relative to the Formation, Promulgation, Consideration, and Adoption of the Federal Constitution, and Illustrative Notes. Volume XX. Albert Stillman Batchellor, editor and compiler. Manchester: John B. Clarke, Public Printer, 1891.” pp. 9–31.

<sup>a</sup> See “Constitutional Conventions in New Hampshire,” pp. 219–220, in the *Historical Magazine*, July, 1866. Morrisonia, N. Y., Henry B. Dawson, New York; American News Co., London: Trübner & Co. *Idem* for August, 1866. “The New Hampshire Constitution of 1779, pp. 260, 261. “An Address of the Convention for Framing a new Constitution of Government for the State of New-Hampshire, to the inhabitants of said State. New Hampshire: Printed and to be sold, at the Printing Offices in Portsmouth and Exeter. MDCCLXXXI.” pp. 63.

<sup>b</sup> A convention met at Concord, June 10, 1778, and framed a constitution, which was submitted to the people at their town-meetings in 1779, and rejected. A new convention was called, which met at Exeter, June 12, 1781, and framed another constitution, which was submitted to the people at their town-meetings for approval or amendments. So numerous were the amendments suggested, and so difficult was it to reconcile conflicting opinions, that the convention did not complete its labors until October 31, 1783. The constitution, thus discussed, amended, and approved in detail by the people of New Hampshire in their town-meetings assembled under the supervision of the convention, was inaugurated June 2, 1784.

acquiring, possessing and protecting property—and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others; and, without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

V. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience, and reason; and no subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping God, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion; provided he doth not disturb the public peace, or disturb others, in their religious worship.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as the knowledge of these, is most likely to be propagated through a society by the institution of the public worship of the DEITY, and of public instruction in morality and religion; therefore, to promote those important purposes, the people of this state have a right to empower, and do hereby fully empower the legislature to authorize from time to time, the several towns, parishes, bodies-corporate, or religious societies within this state, to make adequate provision at their own expence, for the support and maintenance of public protestant teachers of piety, religion and morality:

*Provided notwithstanding*, That the several towns, parishes, bodies-corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no portion of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

VII. The people of this state, have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government, are their substitutes and agents, and at all times accountable to them.

IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

XI. All elections ought to be free, and every inhabitant of the state having the proper qualifications, has equal right to elect, and be elected into office.

XII. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expence of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they or their representative body have given their consent.

XIII. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.

XIV. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

XV. No subject shall be held to answer for any crime, or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land.

XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence.—Nor shall the legislature make any law that shall subject any person to a capital punishment, excepting for the government of the army and navy, and the militia in actual service, without trial by jury.

XVII. In criminal prosecutions, the trial of facts in the vicinity where they happen, is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall

appear to the Judges of the Superior Court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the assembly shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason; where the same undistinguishing severity is exerted against all offences; the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do those of the lightest dye: For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath, or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practiced, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless in causes arising on the high seas, and such as relate to mariners wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time and attendance.

XXII. The Liberty of the Press is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural, and sure defence of a state.

XXV. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

XXVI. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII. No soldier in time of peace, shall be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature, or authority derived from that body.

XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXX. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new ones, as the common good may require.

XXXII. The people have a right in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives; and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV. No person can in any case be subjected to law martial, or to any pains, or penalties, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme (or superior) judicial court should hold their offices so long as they behave well; and that they should have honorable salaries, ascertained and established by standing laws.

XXXVI. Economy being a most essential virtue in all states, especially in a young one; no pension shall be granted, but in consideration of actual services, and such pensions ought to be granted with great caution, by the legislature, and never for more than one year at a time.

XXXVII. In the government of this state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives: and they have a right to require of their law-givers and magistrates, an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.



## PART II.—THE FORM OF GOVERNMENT

THE people inhabiting the territory formerly called the Province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent Body-politic, or State, by the name of the STATE OF NEW HAMPSHIRE.

## THE GENERAL COURT

THE supreme legislative power within this state shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

THE senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary; and shall dissolve, and be dissolved, seven days next preceding the said first Wednesday of June; and shall be stiled THE GENERAL COURT OF NEW-HAMPSHIRE.

THE general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, plaints, actions, causes, matters and things whatsoever, arising, or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

AND farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant, or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within this state; such officers excepted, the election and appointment of whom, are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations, as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within the said state; and upon all estates within the same; to be issued and disposed of by warrant under the hand of the president of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defence

and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

AND while the public charges of government or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practiced; in order that such assessments may be made with equality, there shall be a valuation of the estates within the state taken anew once in every five years at least, and as much oftener as the general court shall order.

SENATE

THERE shall be annually elected by the freeholders and other inhabitants of this state, qualified as in this constitution is provided, twelve persons to be senators for the year ensuing their election; to be chosen in and by the inhabitants of the districts, into which this state may from time to time be divided by the general court, for that purpose; and the general court in assigning the number to be elected by the respective districts, shall govern themselves by the proportion of public taxes paid by the said districts; and timely make known to the inhabitants of the state, the limits of each district, and the number of senators to be elected therein; provided the number of such districts shall never be more than ten, nor less than five.

AND the several counties in this state, shall, until the general court shall order otherwise, be districts for the election of senators, and shall elect the following number, viz.

ROCKINGHAM, five. STRAFFORD, two. HILLSBOROUGH, two. CHESHIRE, two. GRAFTON, one.

THE senate shall be the first branch of the legislature: and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town and parish with town privileges in the several counties in this state, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March; to vote in the town or parish wherein he dwells, for the senators in the county or district whereof he is a member.

AND every person qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in that town, parish and plantation where he dwelleth and hath his home.

THE selectmen of the several towns and parishes aforesaid, shall, during the choice of senators, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators, and shall sort and count the same in the meeting, and in presence of the town-clerk, who shall make a fair record in presence of the selectmen, and in open meeting, of the name of every person voted for, and the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and town-clerk, and shall be sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and delivered by said clerk to the sheriff of the county in which such town or parish lies, thirty days at least, before the first

Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, seventeen days at least, before the first Wednesday of June.

AND the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns by this constitution.

AND, that there may be a due meeting of senators, on the first Wednesday of June, annually, the president and three of the council for the time being, shall as soon as may, examine the returned copies of such records; and fourteen days before the said first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day: *Provided, nevertheless*, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

THE senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution, and shall on the said first Wednesday of June annually, determine and declare, who are elected by each district to be senators by a majority of votes: and in case there shall not appear to be the full number returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the house of representatives and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in each district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by joint ballot the number of senators wanted for such district: and in this manner all such vacancies shall be filled up in every district of the state, and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be after such vacancies happen.

*Provided nevertheless*, That no person shall be capable of being elected a senator, who is not of the protestant religion, and seized of a freehold estate in his own right of the value of *two hundred pounds*, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election; and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

THE senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

THE senate shall appoint their own officers, and determine their own rules of proceedings. And not less than seven members of the

senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five at least shall be necessary to render their acts and proceedings valid.

The senate shall be a court with full power and authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the state, for misconduct, or mal-administration in their offices. But previous to the trial of any such impeachment, the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend farther than removal from office, disqualification to hold or enjoy any place of honor, trust or profit under this state; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to laws of the land.

#### HOUSE OF REPRESENTATIVES

THERE shall be in the legislature of this state a representation of the people annually elected and founded upon principles of equality: and in order that such representation may be as equal as circumstances will admit, every town, parish or place intitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age, and upwards, may elect one representative; if four hundred and fifty rateable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes or places as have less than one hundred and fifty rateable polls shall be classed by the general-assembly for the purpose of chusing a representative, and seasonably notified thereof. And in every class formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place wherein most of the rateable polls reside; and afterwards in that which has the next highest number, and so on annually by rotation, through the several towns, parishes or places, forming the district.

WHENEVER any town, parish, or place intitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place very inconvenient, the general-assembly may upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general-court.

THE members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

ALL persons qualified to vote in the election of senators shall be intitled to vote within the town, district, parish, or place where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot; and for two years at least next preceding his election, shall have been an inhabitant of this state, shall have an estate within the town, parish, or place which he may be chosen to represent, of the value of *one hundred pounds*, one half of which to be a freehold, whereof he is seized in his own right; shall be at the time of his election, an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the

protestant religion, and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

THE travel of each representative to the general-assembly, and returning home, once in every session, and no more, shall be at the expence of the state, and the wages for his attendance, at the expence of the town, parish, or places he represents; such members attending seasonably, and not departing without licence. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

THE house of representatives shall be the grand inquest of the state, and all impeachments made by them, shall be heard and tried by the senate.

ALL money bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

THE house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business; but when less than two-thirds of the representatives elected shall be present, the assent of two-thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

THE house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly or contemptuous behaviour, or by threatening, or ill treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house, in assaulting any witness, or other person, ordered to attend by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such. The senate, president and council, shall have the same powers in like cases; provided that no imprisonment by either, for any offence, exceed ten days.

THE journals of the proceedings of both houses of the general-court, shall be printed and published, immediately after every adjournment, or prorogation; and upon motion made by any one member, the yeas and nays upon any question, shall be taken and entered in the journals.

#### EXECUTIVE POWER.—PRESIDENT

THERE shall be a supreme executive magistrate, who shall be stiled, THE PRESIDENT OF THE STATE OF NEW-HAMPSHIRE; and whose title shall be HIS EXCELLENCY.

THE PRESIDENT shall be chosen annually; and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and



unless he shall be of the age of thirty years; and unless he shall, at the same time, have an estate of the value of *five hundred pounds*, one half of which shall consist of a freehold, in his own right, within the state; and unless he shall be of the Protestant religion.

THOSE persons qualified to vote for senators and representatives, shall within the several towns, parishes or places, where they dwell, at a meeting to be called for that purpose, some day in the month of March annually, give in their votes for a president to the selectmen, who shall preside at such meeting, and the clerk in the presence and with the assistance of the selectmen, shall in open meeting sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name, and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall in the presence of said inhabitants, seal up a copy of said list attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday of June, or shall cause returns of the same to be made to the office of the secretary of the state, seventeen days at least, before said day, who shall lay the same before the senate and house of representatives on the first Wednesday of June, to be by them examined: and in case of an election by a majority of votes through the state, the choice shall be by them declared, and published; but if no person shall have a majority of votes, the house of representatives shall by ballot elect two out of the four persons who had the highest number of votes, if so many shall have been voted for; but if otherwise, out of the number voted for; and make return to the senate of the two persons so elected, on which the senate shall proceed by ballot to elect one of them who shall be declared president.

THE president of the state shall preside in the senate, shall have a vote equal with any other member; and shall also have a casting vote in case of a tie.

THE president with advice of council, shall have full power and authority in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and during the session of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same.

IN cases of disagreement between the two houses, with regard to the time of adjournment, or prorogation, the president, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, at any one time, as he may determine the public good may require. And he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the healths or lives of the members from their attendance, the president may direct the session to be holden at some other the most convenient place within the State.

THE president of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land; and shall have full power by himself, or by any chief commander, or other officer, or officers, from time to time,

to train, instruct, exercise and govern the militia and navy; and for the special defence and safety of this state to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this state; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require: and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade or attempt the invading, conquering, or annoying this state: and in fine, the president hereby is entrusted with all other powers incident to the office of captain-general and commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land; provided that the president shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law-martial in any case, without the advice and consent of the council.

THE power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the president by and with the advice of the council: but no charter of pardon granted by the president with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ALL judicial officers, the attorney-general, solicitor-general, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field-officers of the militia, shall be nominated and appointed by the president and council; and every such nomination shall be made at least seven days prior to such appointment, and no appointment shall take place, unless three of the council agree thereto. The captains and subalterns in the respective regiments shall be nominated and recommended by the field-officers to the president, who is to issue their commissions immediately on receipt of such recommendation.

No officer duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the president, or by fair trial in court-martial, pursuant to the laws of the state for the time being.

THE commanding officers of the regiments shall appoint their adjutants and quarter-masters; the brigadiers their brigade-majors, the major-generals their aids; the captains and subalterns their non-commissioned officers.

THE president and council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this state shall appoint, as also all officers of forts and garrisons.

THE division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

No monies shall be issued out of the treasury of this state, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurers' notes, or for the payment of interest arising thereon) but by warrant under the hand of the president for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ALL public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this state, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the president, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and small arms, with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity; and kind of each, as particularly as may be; together with the condition of such forts and garrisons: and the commanding officer shall exhibit to the president, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

THE president and council shall be compensated for their services from time to time by such grants as the general court shall think reasonable.

PERMANENT and honorable salaries shall be established by law for the justices of the superior court.

WHENEVER the chair of the president shall be vacant, by reason of his death, absence from the state, or otherwise, the senior senator for the time being, shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the president is vested with when personally present.

#### COUNCIL

ANNUALLY, on the first meeting of the general court, two members of the senate and three from the house of representatives, shall be chosen by joint ballot of both houses as a council, for advising the president in the executive part of government, whom the president for the time being, shall have full power and authority to convene from time to time, at his discretion, and the president with the counsellors, or three of them at least, shall and may from time to time hold and keep a council, for ordering and directing the affairs of the state according to the laws of the land.

THE qualifications for counsellors, shall be the same as those required for senators. The members of the council shall not inter-

meddle with the making or trying impeachments, but shall themselves be impeachable by the house, and triable by the senate for mal-conduct.

THE resolutions and advice of the council shall be recorded in a register, and signed by the members present, and this record may be called for at any time, by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority.

AND whereas the elections appointed to be made by this constitution on the first Wednesday of June annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of the elections shall be as follows: the vacancies in the senate, if any, shall be first filled up; the president shall then be elected, provided there should be no choice of him by the people: and afterwards the two houses shall proceed to the election of the council.

#### SECRETARY, TREASURER, COMMISSARY-GENERAL, &C

THE Secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

THE records of the state shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be answerable, and he shall attend the president and council, the senate and representatives, in person or by deputy, as they may require.

#### COUNTY-TREASURER, &C

THE County-treasurers, and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in the state, according to the method now practiced, and the present laws of the state: and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties, in a reasonable sum for the use of the county, for the punctual performance of their respective trusts.

#### JUDICIARY POWER

THE tenure, that all commission officers shall have by law in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting those concerning whom there is a different provision made in this constitution: *Provided nevertheless*, the president, with consent of council, may remove them upon the address of both houses of the legislature.

EACH branch of the legislature, as well as the president and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

IN order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions

of justices of the peace shall become void, at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the state.

THE judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on such fixed days, as the convenience of the people may require. And the legislature shall, from time to time, hereafter appoint such times and places, until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

ALL causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall, by law make other provision.

#### CLERKS OF COURTS

THE clerks of the superior court of judicature, inferior courts of common pleas, and general sessions of the peace, shall be appointed by the respective courts during pleasure. And to prevent any fraud or unfairness in the entries and records of said courts, no such clerk shall be of counsel in any cause in the court of which he is clerk, nor shall he fill any writ in any civil action whatsoever.

#### DELEGATES TO CONGRESS

THE delegates of this state to the Congress of the United States, shall some time between the first Wednesday of June, and the first Wednesday of September annually, be elected by the senate and house of representatives in their separate branches; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the president, and the great seal of the state; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead: and they shall have the same qualifications, in all respects, as by this constitution are required for the president.

No person shall be capable of being a delegate to Congress, for more than three years in any term of six years; nor shall any person being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, or emolument of any kind.

#### ENCOURAGEMENT OF LITERATURE, &C

KNOWLEDGE, and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and the magistrates, in all future periods of this government to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private



charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

OATH AND SUBSCRIPTIONS; EXCLUSION FROM OFFICES; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, &C

ANY person chosen president, counsellor, senator, or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the state of New-Hampshire is, and of right ought to be, a free, sovereign and independent state; and do swear that I will bear faith and true allegiance to the same, and that I will endeavor to defend it against all treacherous conspiracies and hostile attempts whatever: and I do further testify and declare, that no man or body of men, hath or can have, a right to absolve me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgement, profession, testimony, and declaration, honestly and truly, according to the common acceptation of the foregoing words, without any equivocation, mental evasion or secret reservation whatever.

So help me God.

I, A. B. do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my abilities, agreeably to the rules and regulations of this constitution, and the laws of the state of New-Hampshire.

So help me God.

*Provided always,* When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such shall take and subscribe them omitting the word "*swear*," and likewise the words "*So help me God*," subjoined instead thereof, *This I do under the pains and penalties of perjury.*

AND the oaths or affirmations shall be taken and subscribed by the president before the senior senator present, in the presence of the two houses of assembly; and by the senate and representatives first elected under this constitution, before the president and council for the time being; and by the residue of the officers aforesaid, before such persons, and in such manner as from time to time shall be prescribed by the legislature.

ALL commissions shall be in the name of the state of New Hampshire, signed by the president, and attested by the secretary, or his deputy, and shall have the great seal of the state affixed thereto.

ALL writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the state of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall

be interested, then the writ shall bear test of some other justice of the court, to which the same shall be returnable; and be signed by the clerk of such court.

ALL indictments, presentments and informations shall conclude against the peace and dignity of the state.

THE estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

ALL the laws which have heretofore been adopted, used and approved, in the province, colony, or state of New-Hampshire, and usually practiced on in the courts of law, shall remain and be in full force, until altered and repealed by the legislature; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution: Provided that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

THE privilege and benefit of the habeas corpus, shall be enjoyed in this state, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

THE enacting stile in making and passing acts, statutes and laws, shall be—*Be it enacted by the senate and house of representatives, in general court convened.*

No president or judge of the superior court, shall hold any office or place under the authority of this state, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the state; nor shall they hold any place or office, or receive any pension or salary, from any other state, government, or power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this state, viz. Judge of probate, sheriff, register of deeds; and never more than two offices of profit, which may be held by appointment of the president, or president and council, or senate and house of representatives, or superior or inferior courts; military offices, and offices of justices of the peace, excepted.

No person holding the office of judge of the superior court, secretary, treasurer of the state, judge of probate, attorney-general, commissary-general, judge of the maritime court, or judge of the court of admiralty, military officers receiving pay from the continent or this state, excepting officers of the militia occasionally called forth on an emergency; judge of the inferior court of common pleas, register of deeds, president, professor or instructor of any college, sheriff, or office of the customs, including naval-officers, shall at the same time have a seat in the senate or house of representatives, or council; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate, or house of representatives, or council; and the place so vacated shall be filled up.

No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who in the due course of law, has been convicted of bribery or corruption, in obtaining an election or appointment.

In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at *six shillings and eight pence* per ounce.

To the end that there may be no failure of justice or danger arise to this state from a change in the form of government, all civil and military officers, holding commissions under the government and people of New-Hampshire, and other officers of the said government and people, at the time this constitution shall take effect, shall hold, exercise and enjoy all the powers and authorities to them granted and committed, until other persons shall be appointed in their stead. All courts of law in the business of their respective departments, and the executive, and legislative bodies and persons, shall continue in full force, enjoyment and exercise of all their trusts and employments, until the general court, and the supreme and other executive officers under this constitution, are designated, and invested with their respective trusts, powers and authority.

This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this state, in all future editions thereof.

To preserve an effectual adherence to the principles of the constitution, and to correct any violation thereof, as well as to make such alterations therein, as from experience may be found necessary, the general court shall at the expiration of seven years from the time this constitution shall take effect, issue precepts, or direct them to be issued from the secretary's office, to the several towns and incorporated places, to elect delegates to meet in convention for the purposes aforesaid: the said delegates to be chosen in the same manner, and proportioned as the representatives to the general assembly; provided that no alteration shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two-thirds of the qualified voters present, and voting upon the question.

IN CONVENTION,

*Held at Concord, The thirty-first day of October, 1783.*

THE Returns from the several towns being examined, and it appearing that the foregoing BILL OF RIGHTS AND FORM OF GOVERNMENT, were approved of by the PEOPLE; the same are hereby agreed on and established by the DELEGATES OF THE PEOPLE, and declared to be the CIVIL CONSTITUTION FOR THE STATE OF NEW-HAMPSHIRE, to take place on the first Wednesday of June, 1784; and that in the mean time the General Court under the present government, make all the necessary arrangements for introducing this Constitution, at that time, and in the manner therein described.

NATHANIEL FOLSOM, *President, P. T*

J. M. SEWALL, *Secretary.*

## CONSTITUTION OF NEW HAMPSHIRE—1792 \* \*

The Constitution of New Hampshire, as altered and amended by a convention of delegates held at Concord, in said State, by adjournment, on the second Wednesday of February, 1792.

## PART FIRST

## BILL OF RIGHTS

ARTICLE I. All men are born equally free and independent: Therefore, all government, of right, originates from the people, is founded in consent, and instituted for the general good.

ART. II. All men have certain natural, essential, and inherent rights, among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property; and, in a word, of seeking and obtaining happiness.

ART. III. When men enter into a state of society they surrender up some of their natural rights to that society, in order to ensure the protection of others; and without such an equivalent the surrender is void.

ART. IV. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the *rights of conscience*.

ART. V. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason; and no person shall be hurt, molested, or restrained in his person, liberty, or estate for worshipping God in the manner most agreeable to the dictates of his own conscience, or for his religious profession, sentiments, or persuasion; provided he doth not disturb the public peace or disturb others in their religious worship.

ART. VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection; and as a knowledge of these is most likely to be propagated through a society by the institution of the public worship of the Deity, and of public instruction in morality and religion; therefore, to promote those important purposes, the people of this State have a right to empower, and do hereby fully empower, the legislature to authorize, from time to time, the several towns, parishes, bodies cor-

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\* Verified by "The Constitution of New Hampshire, as altered and amended by a Convention of Delegates, held at Concord, in said State, by adjournment, on the second Wednesday of February, M,DCC,XCII. Printed at Concord, by George Hough, for the Convention." 59 pp.

"Journal of the Convention which assembled in Concord to Revise the Constitution of New Hampshire, 1791-1792. Copied from the Original Journal and edited by Nathaniel Bouton, D. D. Concord: Edward A. Jenks, State Printer, 1876." pp. 196.

<sup>a</sup> This constitution was framed by a convention which assembled at Concord September 7, 1791, and completed its labors September 5, 1792, the people having meanwhile ratified the constitution at the polls.

In the original draft the articles are not numbered; they are numbered in this edition for obvious convenience in citation.—EDITOR.

porate, or religious societies within this State, to make adequate provisions, at their own expense, for the support and maintenance of public protestant teachers of piety, religion, and morality.

*Provided notwithstanding,* That the several towns, parishes, bodies corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person, or any one particular religious sect or denomination, shall ever be compelled to pay toward the support of the teacher or teachers of another persuasion, sect, or denomination.

And every denomination of Christians, demeaning themselves quietly and as good subjects of the State, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain and be in the same state as if this constitution had not been made.

ART. VII. The people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State, and do, and forever hereafter shall exercise and enjoy every power, jurisdiction, and right pertaining thereto, which is not or may not hereafter be by them expressly delegated to the United States of America, in Congress assembled.

ART. VIII. All power residing originally in and being derived from the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

ART. IX. No office or place whatsoever in government shall be hereditary—the abilities and integrity requisite in all not being transmissible to posterity or relations.

ART. X. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men; therefore, whenever the ends of government are perverted and public liberty manifestly endangered, and all other means of redress are ineffectual, the people of right ought and may to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. XI. All elections ought to be free, and every inhabitant of the State having the proper qualifications has equal right to elect and be elected into office.

ART. XII. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty, and property. He is therefore bound to contribute his share in the expense of such protection, and to yield his personal service, when necessary, or an equivalent. But no part of a man's property shall be taken from him or applied to public uses, without his own consent or that of the representative body of the people. Nor are the inhabitants of this State controllable by any other laws than those to which they or their representative body have given their consent.

ART. XIII. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay an equivalent.



ART. XIV. Every subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without any delay; conformably to the laws.

ART. XV. No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally described to him, or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate but by the judgment of his peers or the law of the land.

ART. XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence. Nor shall the legislature make any law that shall subject any person to a capital punishment (except for the government of the army and navy, and militia in actual service) without trial by jury.

ART. XVII. In criminal prosecutions, the trial of the facts in the vicinity where they happen is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed; except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

ART. XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offences. For the same reason a multitude of sanguinary laws is both impolitic and unjust; the true design of all punishments being to reform, not to exterminate, mankind.

ART. XIX. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions; *Therefore*, All warrants to search suspected places, or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or object of search, arrest, or seizure; and no warrant ought to be issued but in cases and with the formalities prescribed by law.

ART. XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial

by jury; and this method of procedure shall be held sacred, unless, in cases arising on the high seas, and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

ART. XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to [be] fully compensated for their travel, time and attendance.

ART. XXII. The liberty of the press is essential to the security of freedom in a State; it ought, therefore, to be inviolably preserved.

ART. XXIII. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes or the punishment of offences.

ART. XIV. A well-regulated militia is the proper, natural, and sure defence of a State.

ART. XXV. Standing armies are dangerous to liberty, and ought not to be raised or kept up, without the consent of the legislature.

ART. XXVI. In all cases, and at all times, the military ought to be under strict subordination to, and governed by, the civil power.

ART. XXVII. No soldier, in time of peace, shall be quartered in any house without the consent of the owner; and in time of war such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

ART. XXVIII. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature, or authority derived from that body.

ART. XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. XXX. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

ART. XXXI. The legislature shall assemble for the redress of public grievances, and for making such laws as the public good may require.

ART. XXXII. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instruction to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them and the grievances they suffer.

ART. XXXIII. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

ART. XXXIV. No person can in any case be subjected to law-martial, or to any pains or penalties by virtue of that law, except those employed in the army and navy, and except militia in actual service, but by authority of the legislature.

ART. XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is, therefore, not only the best

policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well; subject, however, to such limitations on account of age as may be provided by the constitution of the State; and that they should have honorable salaries, ascertained and established by standing laws.

ART. XXXVI. Economy being a most essential virtue in all States, especially in a young one, no pension should be granted but in consideration of actual services; and such pension ought to be granted with great caution by the legislature, and never for more than one year at a time.

ART. XXXVII. In the government of this State, the three essential powers thereof, to wit, the legislative, executive, and judicial, ought to be kept as separate from, and independent of, each other as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

ART. XXXVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government. The people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

## PART SECOND

### FORM OF GOVERNMENT

SECTION I. The people inhabiting the territory formerly called the province of New Hampshire, do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body-politic or State, by the name of the State of New Hampshire.

### GENERAL COURT

SEC. II. The supreme legislative power within this State shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

SEC. III. The senate and house shall assemble every year, on the first Wednesday in June, and at such other times as they may judge necessary; and shall dissolve and be dissolved seven days next preceding the first said Wednesday of June, and shall be styled the general court of New Hampshire.

SEC. IV. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record or other courts, to be holden in the name of the State, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters, and things whatsoever arising and happening within this State, or between or concerning persons inhabiting or residing or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital,

and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations for the better discovery of truth in any matter in controversy, or depending before them.

SEC. V. And farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this State, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, of all civil officers within this State; such officers excepted the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits of the several civil and military officers of this State, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes upon all the inhabitants of and residents within the said State, and upon all estates within the same; to be issued and disposed of by warrant under the hand of the governor of this State for the time being, with the advice and consent of the council, for the public service in the necessary defence and support of the government of this State, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

SEC. VI. And while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practiced, in order that such assessments may be made with equality, there shall be a valuation of the estates within the State, taken anew once in every five years at least, and as much oftener as the general court shall order.

SEC. VII. No member of the general court shall take fees, be of counsel, or act as advocate in any cause before either branch of the legislature; and upon due proof thereof such member shall forfeit his seat in the legislature.

SEC. VIII. The doors of the galleries of each house of the legislature shall be kept open to all persons who behave decently, except when the welfare of the State, in the opinion of either branch, shall require secrecy.

#### HOUSE OF REPRESENTATIVES

SEC. IX. There shall be in the legislature of this State a representation of the people annually elected, and founded upon principles of equality; and in order that such representation may be equal as

circumstances will admit, every town, parish, or place entitled to town privileges, having one hundred and fifty ratable male polls, of twenty-one years of age and upward, may elect one representative; if four hundred and fifty ratable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such ratable polls the mean increasing number of every additional representative.

SEC. X. Such towns, parishes, or places as have less than one hundred and fifty ratable polls shall be classed by the general court, for the purpose of choosing a representative, and seasonably notified thereof. And in every class formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place wherein most of the ratable polls reside; and afterward in that which has the next highest number, and so on annually by rotation, through the several towns, parishes, or places forming the district.

SEC. XI. Whenever any town, parish, or place entitled to town privileges as aforesaid, shall not have one hundred and fifty ratable polls, and be so situated as to render the classing thereof with any other town, parish, or place very inconvenient, the general court may, upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general court.

SEC. XII. The members of the house of representatives shall be chosen annually, in the month of March, and shall be the second branch of the legislature.

SEC. XIII. All persons qualified to vote in the election of senators shall be entitled to vote within the district where they dwell, in the choice of representatives.

SEC. XIV. Every member of the house of representatives shall be chosen by ballot, and for two years at least next preceding his election shall have been an inhabitant of this State, [shall have an estate within the district which he may be chosen to represent, of the value of one hundred pounds, one-half of which to be a freehold, whereof he is seized in his own right;]<sup>a</sup> shall be at the time of his election an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the Protestant religion, and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

SEC. XV. The members of both houses of the legislature shall be compensated for their services out of the treasury of the State, by a law made for that purpose; such members attending seasonably, and not departing without license.

SEC. XVI. All intermediate vacancies in the house of representatives may be filled up, from time to time, in the same manner as annual elections are made.

SEC. XVII. The house of representatives shall be the grand inquest of the State, and all impeachments made by them shall be heard and tried by the senate.

SEC. XVIII. All money bills shall originate in the house of representatives, but the senate may propose or concur with amendments, as on other bills.

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<sup>a</sup> See amendments, page 2490.



SEC. XIX. The house of representatives shall have power to adjourn themselves, but not longer than two days at a time.

SEC. XX. A majority of the members of the house of representatives shall be a quorum for doing business; but when less than two-thirds of the representatives elected shall be present, the assent of two-thirds of those members shall be necessary to render their acts and proceedings valid.

SEC. XXI. No member of the house of representatives or senate shall be arrested or held to bail on mean process during his going to, returning from, or attendance upon, the court.

SEC. XXII. The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house; and shall be judge of the returns, elections, and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment every person who shall be guilty of disrespect to the house in its presence by any disorderly and contemptuous behavior, or by threatening or ill-treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrest for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house; in assaulting any witness or other person, ordered to attend, by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such.

SEC. XXIII. The senate, governor, and council shall have the same powers in like cases; provided that no imprisonment by either, for any offence, exceed ten days.

SEC. XXIV. The journals of the proceedings, and all public acts of both houses of the legislature, shall be printed and published immediately after every adjournment or prorogation; and upon motion made by any one member, the yeas and nays upon any question shall be entered upon the journal; and any member of the senate or house of representatives shall have a right, on motion made at the same time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

#### SENATE

SEC. XXV. The senate shall consist of twelve members, who shall hold their office for one year from the first Wednesday of June next ensuing their election.

SEC. XXVI. And that the State may be equally represented in the senate, the legislature shall, from time to time, divide the State into twelve districts, as nearly equal as may be, without dividing towns and unincorporated places; and in making this division they shall govern themselves by the proportion of direct taxes paid by the said district; and timely make known to the inhabitants of the State the limits of each district.

SEC. XXVII. The freeholders and other inhabitants of each district, qualified as in this constitution is provided, shall annually give in their votes for a senator, at some meeting holden in the month of March.

SEC. XXVIII. The senate shall be the first branch of the legislature, and the senators shall be chosen in the following manner, viz: every male inhabitant of each town and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the annual or other meeting of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for the senator in the district where of he is a member.

SEC. XXIX. *Provided, nevertheless,* That no person shall be capable of being elected a senator who is not of the *Protestant religion*, and seized of a freehold estate in his own rights of the value of two hundred pounds, lying within the State, who is not of the age of thirty years, and who shall not have been an inhabitant of the State for seven years immediately preceding his election, and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

SEC. XXX. And every person, qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish, and plantation where he dwelleth and hath his home.

SEC. XXXI. And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves toward the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden annually in the month of March, at such places respectively therein as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution.

SEC. XXXII. The meetings for the choice of governor, council, and senators shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen, (whose duty it shall be to attend,) in open meeting, receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators; and shall in said meetings, in presence of said selectmen, and of the town clerk in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for and the number of votes for each person; and the town clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the State, with a superscription expressing the purport thereof; and the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which said town or parish shall lie, thirty days at least before the first Wednesday of June, or to the secretary of state at least twenty days before the said first Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates

by him received into the secretary's office, at least twenty days before the first Wednesday of June.

SEC. XXXIII. And that there may be a due meeting of senators on the first Wednesday of June annually, the governor and a majority of the council for the time being shall, as soon as may be, examine the return copies of such records, and fourteen days before the first Wednesday of June he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day: *Provided, nevertheless,* That for the first year the said returned copies shall be examined by the president and the majority of the council then in office; and the said president shall in like manner notify the persons elected to attend and take their seats accordingly.

SEC. XXXIV. And in case there shall not appear to be a senator elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz: the members of the house of representatives, and such senators as shall be declared elected, shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district; and in this manner all such vacancies shall be filled up in every district of the State; and in like manner all the vacancies in the senate, arising by death, removal out of the State, or otherwise, shall be supplied, as soon as may be, after such vacancies happen.

SEC. XXXV. The senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution.

SEC. XXXVI. The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time: *Provided, nevertheless,* That whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day or at such place.

SEC. XXXVII. The senate shall appoint their president and other officers, and determine their own rules of proceedings. And not less than seven members of the senate shall make a quorum for doing business; and when less than eight senators shall be present, the assent of five, at least, shall be necessary to render their acts and proceedings valid.

SEC. XXXVIII. The senate shall be a court, with full power and authority to hear, try, and determine all impeachments made by the house of representatives against any officer or officers of the State, for bribery, corruption, malpractice, or maladministration in office, with full power to issue summons or compulsory process, convening witnesses before them; but previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. And every officer impeached for bribery, corruption, malpractice, or maladministration in office shall be served with an attested copy of the impeachment and order of the senate thereon, with such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff, or such other sworn officer as the senate may

appoint, at least fourteen days previous to the time of trial; and such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs, and of making his defence by himself and counsel; and may, also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial.

SEC. XXXIX. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under this State; but the party so convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to the laws of the land.

SEC. XL. Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate but have no vote therein.

## EXECUTIVE POWER

### GOVERNOR

SEC. XLI. There shall be a supreme executive magistrate, who shall be styled governor of the State of New Hampshire; and whose title shall be *His Excellency*.

SEC. XLII. The governor shall be chosen annually in the month of March; and the votes for governor shall be received, sorted, counted, certified, and returned in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives on the first Wednesday of June, to be by them examined; and in case of an election by a majority of votes through the State, the choice shall be by them declared and published. And the qualifications of electors of the governor shall be the same as those for senators; and if no person shall have a majority of votes, the senate and house of representatives shall, by joint ballot, elect one of the two persons having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office unless at the time of his election he shall have been an inhabitant of this State for seven years next preceding, and unless he shall be of the age of thirty years and unless he shall at the same time have an estate of the value of five hundred pounds, one-half of which shall consist of a freehold in his own right within this State, and unless he shall be of the protestant religion.

SEC. XLIII. In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require, and he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the health or lives of the members from their attendance,

the governor may direct the session to be holden at some other, the most convenient place within the State.

SEC. XLIV. Every bill which shall have passed both houses of the general court shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

SEC. XLV. Every resolve shall be presented to the governor, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. XLVI. All judicial officers, the attorney-general, solicitors, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field officers of the militia shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place unless a majority of the council agree thereto.

SEC. XLVII. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council who made the same.

SEC. XLVIII. The captains and subalterns in the respective regiments shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation.

SEC. XLIX. Whenever the chair of the governor shall become vacant by reason of his death, absence from the State, or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the governor is vested with when personally present; but when the president of the senate shall exercise the office of governor he shall not hold his office in the senate.

SEC. L. The governor, with the advice of council, shall have full power and authority, in recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court; and, during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire, and call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the State should require the same.



SEC. LI. The governor of this State for the time being shall be commander-in-chief of the army and navy, and all the military forces of the State by sea and land; and shall have full power by himself or by any chief commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and for the special defence and safety of this State, to assemble in martial array, and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist, and pursue by force of arms, as well by sea as by land, within and without the limits of this State; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprise, and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this State; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion declared by the legislature to exist, as occasion shall necessarily require; and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering, or annoying this State; and, in fine, the governor hereby is entrusted with all other powers incident to the office of captain-general and commander-in-chief and admiral, to be exercised agreeably to the rules and regulations of the constitution and the laws of the land: *Provided*, That the governor shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this State, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law-martial in any case without the advice and consent of the council.

SEC. LII. The power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon granted by the governor, with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

SEC. LIII. No officer, duly commissioned to command in the militia, shall be removed from his office but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the State for the time being.

SEC. LIV. The commanding officers of the regiments shall appoint their adjutants and quartermasters; the brigadiers, their brigade-majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

SEC. LV. The division of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this State, until the same shall be altered by some future law.

SEC. LVI. No moneys shall be issued out of the treasury of this State, and disposed of (except such sums as may be appropriated

for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of council, for the necessary support and defence of this State, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

SEC. LVII. All public boards, the commissary-general, all superintending officers of public magazines and stores belonging to this State, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially, and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and all small-arms with their accoutrements, and of all other public property under their care, respectively; distinguishing the quantity and kind of each as particularly as may be, together with the condition of such forts and garrisons; and the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors adjacent.

SEC. LVIII. The governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

SEC. LIX. Permanent and honorable salaries shall be established by law for the justices of the superior court.

#### COUNCIL

SEC. LX. There shall be annually elected by ballot five councillors, for advising the governor in the executive part of government. The freeholders and other inhabitants of each county, qualified to vote for senators, shall, some time in the month of March, give in their votes for one councillor; which votes shall be received, sorted, counted, certified, and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of June.

SEC. LXI. And the person having a majority of votes in any county shall be considered as duly elected a councillor, but if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county, and not elected, and out of these two shall elect by joint ballot the councillor wanted for such county; and the qualifications for councillors shall be the same as for senators.

SEC. LXII. If any person thus chosen a councillor shall be elected governor or member of either branch of the legislature, and shall accept the trust; or if any person elected a councillor shall refuse to accept the office; or in case of the death, resignation, or removal of any councillor out of the State, the governor may issue a precept for the election of a new councillor in that county where such vacancy shall happen; and the choice shall be in the same manner as before directed; and the governor shall have full power and authority to convene the council, from time to time, at his discretion; and with them, or the majority of them, may and shall, from time to time, hold

a council for ordering and directing the affairs of this State, according to the laws of the land.

SEC. LXIII. The members of the council may be impeached by the house and tried by the senate for bribery, corruption, malpractice, or maladministration.

SEC. LXIV. The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority, with the reasons for such opinion.

SEC. LXV. The legislature may, if the public good shall hereafter require it, divide the State into five districts, as nearly equal as may be, governing themselves by the number of ratable polls and proportion of public taxes; each district to elect a councillor; and in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

SEC. LXVI. *And whereas*, The elections appointed to be made by this constitution on the first Wednesday of June, annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same be completed. And the order of the elections shall be as follows: the vacancies of the senate, if any, shall be first filled up; the governor shall then be elected, provided there should be no choice of him by the people; and afterward the two houses shall proceed to fill up the vacancy, if any, in the council.

#### SECRETARY, TREASURER, COMMISSARY-GENERAL, ETC

SEC. LXVII. The secretary, treasurer, and commissary-general shall be chosen by joint ballot of the senators and representatives, assembled in one room.

SEC. LXVIII. The records of the State shall be kept in the office of the secretary; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

SEC. LXIX. The secretary of state shall at all times have a deputy, to be by him appointed, for whose conduct in office he shall be responsible; and in case of the death, removal, or inability of the secretary, his deputy shall exercise all the duties of the office of secretary of this state until another shall be appointed.

SEC. LXX. The secretary, before he enters upon the business of his office, shall give bond, with sufficient sureties, in a reasonable sum, for the use of the State, for the punctual performance of his trust.

#### COUNTY TREASURERS, ETC

SEC. LXXI. The county treasurers and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in the State, according to the method now practiced and the laws of the State:

*Provided, nevertheless*, The legislature shall have authority to alter the manner of certifying the votes and the mode of electing those

officers, but not so as to deprive the people of the right they now have of electing them.

SEC. LXXII. And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary; each district to elect a register of deeds; and, before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

#### JUDICIAL POWER

SEC. LXXIII. The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution: *Provided, nevertheless,* The president,<sup>a</sup> with consent of the council, may remove them upon the address of both houses of the legislature.

SEC. LXXIV. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

SEC. LXXV. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the State.

SEC. LXXVI. All causes of marriage, divorce, and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall by law make other provision.

SEC. LXXVII. The general court are empowered to give to justices of the peace jurisdiction in civil causes when the damages demanded shall not exceed four pounds, and title of real estate is not concerned; but with right of appeal to either party to some other court, so that a trial by jury, in the last resort, may be had.

SEC. LXXVIII. No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

SEC. LXXIX. No judge of any court, or justice of the peace, shall act as attorney or be of counsel to any party, or originate any civil suit in matters which shall come or be brought before him as judge or justice of the peace.

SEC. LXXX. All matters relating to the probate of wills and granting letters of administration shall be exercised by the judges of probate, in such manner as the legislature have directed, or may here-

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<sup>a</sup> Printed *governor* in several printed editions, but *president* in the original document.

after direct; and the judges of probate shall hold their courts at such place or places, on such fixed days as the convenience of the people may require, and the legislature from time to time appoint.

SEC. LXXXI. No judge or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel in any probate business which is pending or may be brought into any court of probate in the county of which he is the judge or register.

#### CLERKS OF COURTS

SEC. LXXXII. The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure; and no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is clerk, nor shall he draw any writ originating a civil action.

#### ENCOURAGEMENT OF LITERATURE, ETC

SEC. LXXXIII. Knowledge and learning generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the county being highly conducive to promote this end, it shall be the duty of the legislatures and magistrates, in all future periods of this government, to cherish the interests of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trade, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments among the people.

OATHS AND SUBSCRIPTIONS; EXCLUSION FROM OFFICES; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION, ETC

SEC. LXXXIV. Any person chosen governor, councillor, senator, or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz:

“I, A. B., do solemnly swear that I will bear faith and true allegiance to the State of New Hampshire, and will support the constitution thereof. So help me God.

“I, A. B., do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities; agreeable to the rules and regulations of this constitution and the laws of the State of New Hampshire. So help me God.”

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again:



*Provided always*, When any person, chosen or appointed as aforesaid, shall be of the denomination called Quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word "swear," and likewise the words, "So help me God," subjoining instead thereof, "This I do under the pains and penalties of perjury."

SEC. LXXXV. And the oaths of affirmation shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature, and by the senators and representatives first elected under this constitution as altered and amended, before the president of the State and a majority of the council then in office, and forever afterward before the governor and council for the time being; and by all other officers before such persons and in such manner as the legislature shall from time to time appoint.

SEC. LXXXVI. All commissions shall be in the name of the State of New Hampshire, signed by the governor and attested by the secretary or his deputy, and shall have the great seal of the State affixed thereto.

SEC. LXXXVII. All writs issuing out of the clerk's office in any of the courts of law shall be in the name of the State of New Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear the test of some other justice of the court, to which the same shall be returnable, and be signed by the clerk of such court.

SEC. LXXXVIII. All indictments, presentments, and information shall conclude, Against the peace and dignity of the State.

SEC. LXXXIX. The estate of such persons as may destroy their own lives shall not for that offence be forfeited, but descend or ascend in the same manner as if such person had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

SEC. XC. All laws which have heretofore been adopted, used, and approved in the province, colony, or State of New Hampshire, and usually practised on in the courts of law, shall remain and be in full force until altered and repealed by the legislature, such parts thereof only excepted as are repugnant to the rights and liberties contained in this constitution: *Provided*, That nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

SEC. XCI. The privilege and benefit of the *habeas corpus* shall be enjoyed in this State in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

SEC. XCII. The enacting style in making and passing acts, statutes, and laws shall be, *Be it enacted by the senate and house of representatives in general court convened*.

SEC. XCIII. No governor or judge of the supreme judicial court shall hold any office or place under the authority of this State, except such as by this constitution they are admitted to hold, saving that the

judges of the said court may hold the offices of justices of the peace throughout the State; nor shall they hold any place or office, or receive any pension or salary from any other State, government, or power whatever.

SEC. XCIV. No person shall be capable of exercising at the same time more than one of the following offices in this State, viz: judge of probate, sheriff, register of deeds, and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts; military offices and offices of the justices of the peace excepted.

SEC. XCV. No person holding the office of judge of any court, except special judges, secretary, treasurer of the State, attorney-general, commissary-general, military officers receiving pay from the continent or this State, excepting officers of the militia, occasionally called forth on an emergency, register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and State and continental taxes, hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of Congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate, or house of representatives, or council; but his being chosen and appointed to and accepting the same shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council, and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

SEC. XCVI. No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who, in the due course of law, has been convicted of bribery or corruption in obtaining an election or appointment.

SEC. XCVII. In all cases where sums of money are mentioned in this constitution the value thereof shall be computed in silver at six shillings and eight pence per ounce.

SEC. XCVIII. To the end that there may be no failure of justice or danger to the State, by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.<sup>a</sup>

SEC. XCIX. It shall be the duty of the selectmen and assessors of the several towns and places in this State, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant this purpose among others for the meeting, to wit: to take the sense of the qualified voters on the subject of a revision of the constitution; and the meeting being warned accordingly, and not otherwise, the moderator shall take the sense of the qualified voters present as to the necessity of a revision; and a return of the number of votes for and against such necessity shall be made by the clerk, sealed up, and directed to the general court at their then next session; and if it shall appear to the general court, by such return, that the sense of the people of the State has been taken, and

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<sup>a</sup> Fixed by act of December 14, 1792.

that, in the opinion of the majority of the qualified voters in the State, present and voting at the said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose; otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned; the delegates to be chosen in the same manner and proportioned as the representatives to the general court: *Provided*, That no alterations shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two-thirds of the qualified voters present and voting on the subject.

SEC. C. And the same method of taking the sense of the people as to the revision of the constitution, and calling a convention for that purpose, shall be observed afterward, at the expiration of every seven years.

SEC. CI. This form of government shall be enrolled on parchment and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this State in all future editions thereof.

JOHN PICKERING, *President pro tem.*

JOHN CALFE, *Secretary.*

IN CONVENTION,  
*Held at Concord the Fifth Day of September,*  
*Anno Domini 1792.*

The returns from the several towns and unincorporated places being examined, and it appearing that the foregoing *Bill of Rights and Form of Government*, as amended by the convention, were approved by more than two-thirds of the qualified voters present in town meetings, and voting upon the question, the same are agreed on and established by the delegates of the people in convention, and declared to be the civil constitution of the State of New Hampshire.

SAMUEL LIVERMORE, *President.*

JOHN CALFE, *Secretary.*

#### AMENDMENTS TO THE CONSTITUTION OF 1792

(Ratified in 1852)<sup>a</sup>

PART II. SECTION 14. Strike out the words "shall have an estate within the district where he may be chosen to represent of the value of one hundred pounds, one-half of which to be a freehold whereof he is seized in his own right."

PART II. SEC. 29. Strike out the words "and seized of a freehold estate in his own right of the value of two hundred pounds, lying within this State."

PART II. SEC. 42. Strike out the words "and unless he shall at the same time have an estate of the value of five hundred pounds, one-half of which shall consist of a freehold in his own right within this State."

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<sup>a</sup> These amendments were framed with several others by a convention which assembled at Concord November 6, 1850, and after an adjournment closed its labors April 17, 1852. The other amendments were rejected by the people.

(Ratified in 1877)\* a

PART II. SECS. 3, 5, 12, 16, 27, 28, 31, 33, 42, 60, and 66. Strike out the words "every year" and insert the word "biennially."

PART II. SEC. 5. Add:

"*Provided*, That the general court shall not authorize any town to loan or give its money or credit, directly or indirectly, for the benefit of any corporation having for its object a dividend of profits, or in any way aid the same by taking its stock or bonds."

PART II. SECS. 9, 10, and 11. Strike out these sections, and insert:

"SEC. 9. There shall be in the legislature of the State a representation of the people, biennially elected, and founded upon the principles of equality; and in order that such representation may be as equal as circumstances will admit, every town or place entitled to town privileges, and wards of cities having six hundred inhabitants by the last general census of the State, taken by authority of the United States or of this State, may elect one representative; if eighteen hundred such inhabitants, may elect two representatives; and so proceeding in that proportion, making twelve hundred such inhabitants the mean increasing number for any additional representative: *Provided*, That no town shall be divided, or the boundaries of the wards of any city so altered, as to increase the number of representatives to which such town or city may be entitled by the next preceding census: *And provided further*, That to those towns and cities which since the last census have been divided, or had their boundaries or ward lines changed, the general court, in session next before these amendments shall take effect, shall equitably apportion representation in such manner that the number shall not be greater than it would have been had no such division or alteration been made.

"SEC. 10. Such towns, places, and wards as have less than six hundred inhabitants shall be classed by the general court for the purpose of choosing a representative, so that every such class shall contain at least six hundred inhabitants, and be seasonably notified thereof; and in every such class the first meeting shall be held in the town, place, or ward wherein most of the inhabitants reside, and afterwards in that which has the next highest number, and so on, biennially, in rotation through the several towns, places, and wards forming the district.

"SEC. 11. Whenever any town, place, or city ward shall have less than six hundred such inhabitants, and be so situated that it cannot conveniently be classed with any other town, place, or ward, the general court may authorize such town, place, or ward to elect and send to the general court such proportionate part of the time as the number of its inhabitants shall bear to six hundred; but the general court shall not authorize any town, place, or ward to elect and send such representative, except as herein provided."

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\* The Constitution of New Hampshire as amended by the Constitutional Convention, held at Concord, the first Wednesday of December, A. D. 1876, etc. Published by order of the Convention, 1877. Concord: and attested as a correct copy by John L. Hadley, Secretary of State.

Journal of the Constitutional Convention of the State of New Hampshire, December, 1876. Concord: Edward A. Jenks, State Printer. 1877. pp. 280.

a These amendments were framed by a convention which met at Concord December 6, 1876, and closed its labors December 16, 1876. They were ratified by the people March 13, 1877.

PART II. SECS. 12, 28, 31, 42, and 60. Strike out the word "March" and insert "November."

PART II. SEC. 14. Strike out the words "shall be of the Protestant religion."

PART II. SECS. 25, 26. Strike out the word "twelve" and insert the word "twenty-four."

PART II. SEC. 29. Strike out the words "who is not of the Protestant religion."

PART II. SEC. 37. Strike out the words "seven," "eight," "five," and insert the words "thirteen," "sixteen," "ten."

PART II. SEC. 42. Strike out the words "and unless he shall be of the Protestant religion."

PART II. SEC. 46. Strike out the words "solicitors, all sheriffs," "registers of probate."

PART II. SEC. 73. Strike out the word "president" and insert the word "governor."

PART II. SEC. 77. Strike out the words "four pounds" and insert the words "one hundred dollars." Strike out the words "so that a trial by jury, in the last resort, may be had."

(Ratified in 1889)

ARTS. 3, 25, 32, 33, 42, 43, 60, 66. Strike out the word "June" wherever it occurs in these articles and insert the word "January" in place thereof.

ARTS. 10, 11. Strike out these Articles and insert the following:

"ART. 10. Whenever any town, place, or city ward shall have less than six hundred such inhabitants, the General Court shall authorize such town, place, or ward to elect and send to the General Court a representative such proportionate part of the time as the number of its inhabitants shall bear to six hundred, but the General Court shall not authorize any such town, place, or ward to elect and send such representative except as herein provided."

ART. 15. Strike out this article and insert the following:

"ART. 15. The presiding officers of both houses of the Legislature shall severally receive out of the state treasury, as compensation in full for their services for the term elected, the sum of two hundred and fifty dollars, and all other members thereof, seasonably attending and not departing without license, the sum of two hundred dollars, exclusive of mileage; *provided, however*, that when a special session shall be called by the governor, such officers and members shall receive for attendance an additional compensation of three dollars per day, for a period not exceeding fifteen days, and the usual mileage."

ART. 34. Strike out all after the word "State" and insert the following:

"All vacancies in the Senate arising by death, removal out of the State, or otherwise, except from failure to elect, shall be filled by a new election by the people of the district, upon the requisition of the governor, as soon as may be after such vacancies shall happen."

ART. 49. Add to this article the following words:

"Whenever the chair, both of the governor and president of the Senate, shall become vacant by reason of their death, absence from the State, or otherwise, the speaker of the House shall during such vacancies have and exercise all the powers and authorities which by



this Constitution the governor is vested with when personally present. But when the speaker of the House shall exercise the office of governor, he shall not hold his office in the House."

(Ratified in 1902)

PART II. ART. 6. The public charges of government or any part thereof may be raised by taxation upon polls, estates, and other classes of property, including franchises and property when passing by will or inheritance; and there shall be a valuation of the estates within the state taken anew once in every five years, at least, and as much oftener as the general court shall order.

PART II. ART. 11. All elections ought to be free; and every inhabitant of the state, having the proper qualifications, has equal right to elect and be elected into office; but no person shall have the right to vote, or be eligible to office under the constitution of this state, who shall not be able to read the constitution in the English language, and to write, *provided*, however, that this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards on the first day of January, A. D. 1904.

PART II. ART. 47. The captains and subalterns in the respective regiments shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation; *provided*, that no person shall be so nominated and recommended until he shall have been examined and found duly qualified by an examining board appointed by the governor.

PART II. ART. 82. Knowledge and learning generally diffused through a community being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to promote this end, it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments, among the people; *provided, nevertheless*, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization, and provision should be made for the supervision and government thereof:—Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or

domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

## CONSTITUTION OF NEW HAMPSHIRE—(Amended) 1902 \*

### PART FIRST

#### BILL OF RIGHTS

ARTICLE 1. All men are born equally free and independent; therefore all government of right originates from the people, is founded in consent, and instituted for the general good.

ART. 2. All men have certain natural, essential, and inherent rights, among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and, in a word, of seeking and obtaining happiness.

ART. 3. When men enter into a state of society they surrender up some of their natural rights to that society in order to insure the protection of others; and, without such an equivalent, the surrender is void.

ART. 4. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the rights of conscience.

ART. 5. Every individual has a natural and unalienable right to worship God according to the dictates of his own conscience and reason; and no subject shall be hurt, molested or restrained, in his person, liberty or estate, for worshiping God in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion, provided he doth not disturb the public peace or disturb others in their religious worship.

ART. 6. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection, and as the knowledge of these is most likely to be propagated through a society by the institution of the public worship of the DEITY and of public instruction in morality and religion, therefore, to promote these important purposes, the people of this state have a right to empower, and do hereby fully empower, the legislature to authorize, from time to time, the several towns, parishes, bodies corporate, or religious societies within this state to make adequate provision, at their own expense, for the support and maintenance of public Protestant teachers of piety, religion, and morality. *Provided, notwithstanding, that the several towns, parishes, bodies corporate or religious societies shall at all times have the exclusive right of electing*

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\* Verified from official copy furnished by the Secretary of State of New Hampshire, March 29, 1907.—EDITOR. See "List of Authorities."

their own public teachers, and of contracting with them for their support and maintenance. [And] no person [of any one particular religious sect or denomination] shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination. And every denomination of Christians, demeaning themselves quietly and as good subjects of the state, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law. And nothing herein shall be understood to affect any former contracts made for the support of the ministry; but all such contracts shall remain and be in the same state as if this constitution had not been made.

ART. 7. The people of this state have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right pertaining thereto which is not or may not hereafter be by them expressly delegated to the United States of America in congress assembled.

ART. 8. All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them.

ART. 9. No office or place whatsoever in government shall be hereditary, the abilities and integrity requisite in all not being transmissible to posterity or relations.

ART. 10. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private interest or emolument of any one man, family, or class of men, therefore, whenever the ends of government are perverted and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

ART. 11. All elections ought to be free; and every inhabitant of the state, having the proper qualifications, has equal right to elect and be elected into office; but no person shall have the right to vote, or be eligible to office under the constitution of this state, who shall not be able to read the constitution in the English language, and to write, *provided, however*, that this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards on the first day of January, A. D. 1904.

ART. 12. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty, and property. He is, therefore, bound to contribute his share in the expense of such protection, and to yield his personal service, when necessary, or an equivalent. But no part of a man's property shall be taken from him or applied to public uses without his own consent or that of the representative body of the people. Nor are the inhabitants of this state controllable by any other laws than those to which they or their representative body have given their consent.

ART. 13. No person who is conscientiously scrupulous about the lawfulness of bearing arms shall be compelled thereto, provided he will pay an equivalent.

ART. 14. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely and without any denial; promptly, and without delay; conformably to the laws.

ART. 15. No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally, described to him, or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself, to meet the witnesses against him face to face, and to be fully heard in his defense by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land.

ART. 16. No subject shall be liable to be tried, after an acquittal, for the same crime or offense; nor shall the legislature make any law that shall subject any person to a capital punishment (excepting for the government of the army and navy, and the militia in actual service) without trial by jury.

ART. 17. In criminal prosecutions, the trial of facts in the vicinity where they happen is so essential to the security of the life, liberty, and estate of the citizen, that no crime or offense ought to be tried in any other county than that in which it is committed, except in cases of general insurrection in any particular county, when it shall appear to the judges of the superior court that an impartial trial cannot be had in the county where the offense may be committed, and, upon their report, the legislature shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

ART. 18. All penalties ought to be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reason, a multitude of sanguinary laws is both impolitic and unjust, the true design of all punishments being to reform, not to exterminate, mankind.

ART. 19. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order, in a warrant to a civil officer, to make search in suspected places or to arrest one or more suspected persons or to seize their property, be not accompanied with a special designation of the person or object of search, arrest, or seizure; and no warrant ought to be issued but in cases and with the formalities prescribed by law.

ART. 20. In all controversies concerning property and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practiced, and except in cases in which the value in controversy does not exceed one hundred dollars and title

of real estate is not concerned, the parties have a right to trial by jury; and this method of procedure shall be held sacred, unless, in cases arising on the high seas and such as relate to mariners' wages, the legislature shall think it necessary hereafter to alter it.

ART. 21. In order to reap the fullest advantage of the inestimable privilege of trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve; and such ought to be fully compensated for their travel, time, and attendance.

ART. 22. The liberty of the press is essential to the security of freedom in a state; it ought, therefore, to be inviolably preserved.

ART. 23. Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore, should be made, either for the decision of civil causes or the punishment of offenses.

ART. 24. A well-regulated militia is the proper, natural, and sure defense of a state.

ART. 25. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

ART. 26. In all cases and at all times, the military ought to be under strict subordination to, and governed by, the civil power.

ART. 27. No soldier, in time of peace, shall be quartered in any house without the consent of the owner; and, in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

ART. 28. No subsidy, charge, tax, impost, or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature, or authority derived from that body.

ART. 29. The power of suspending the laws or the execution of them ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

ART. 30. The freedom of deliberation, speech, and debate in either house of the legislature is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution in any other court or place whatsoever.

ART. 31. The legislature shall assemble for the redress of public grievances and for making such laws as the public good may require.

ART. 32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

ART. 33. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines or inflict cruel or unusual punishments.

ART. 34. No person can in any case be subjected to law martial or to any pains or penalties by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

ART. 35. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit. It is, therefore, not only the best



policy, but for the security of the rights of the people, that the judges of the supreme judicial court should hold their offices so long as they behave well, subject, however, to such limitations on account of age as may be provided by the constitution of the state; and that they should have honorable salaries, ascertained and established by standing laws.

ART. 36. Economy being a most essential virtue in all states, especially in a young one, no pension should be granted but in consideration of actual services; and such pensions ought to be granted with great caution by the legislature, and never for more than one year at a time.

ART. 37. In the government of this state, the three essential powers thereof—to wit, the legislative, executive, and judicial—ought to be kept as separate from, and independent of, each other as the nature of a free government will admit or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

ART. 38. A frequent recurrence to the fundamental principles of the constitution and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government. The people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.

## PART SECOND

### FORM OF GOVERNMENT

ARTICLE 1. The people inhabiting the territory formerly called The Province of New Hampshire do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body politic, or state, by the name of THE STATE OF NEW HAMPSHIRE.

### GENERAL COURT

ART. 2. The supreme legislative power within this state shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

ART. 3. The senate and house shall assemble biennially, on the first Wednesday of January and at such other times as they may judge necessary, and shall dissolve and be dissolved seven days next preceding the said first Wednesday of January biennially, and shall be styled THE GENERAL COURT OF NEW HAMPSHIRE.

ART. 4. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offenses, pleas, processes, complaints, actions, causes, matters, and things whatsoever, arising or happening within this state, or between or concerning persons

inhabiting, or residing, or brought within the same, or whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed, and for the awarding and issuing execution thereon; to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations for the better discovery of truth in any matter in controversy or depending before them.

ART. 5. And, further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state and for the governing and ordering thereof and of the subjects of the same, for the necessary support and defense of the government thereof; and to name and settle biennially, or provide by fixed laws for the naming and settling all civil officers within this state, such officers excepted the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and, also, to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportional and reasonable assessments, rates, and taxes upon all the inhabitants of, and residents within, the said state, and upon all estates within the same, to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defense and support of the government of this state and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same. *Provided*, that the general court shall not authorize any town to loan or give its money or credit, directly or indirectly, for the benefit of any corporation having for its object a dividend of profits, or in any way aid the same by taking its stock or bonds.

ART. 6. The public charges of government or any part thereof may be raised by taxation upon polls, estates, and other classes of property, including franchises and property when passing by will or inheritance; and there shall be a valuation of the estates within the state taken anew once in every five years, at least, and as much oftener as the general court shall order.

ART. 7. No member of the general court shall take fees, be of counsel or act as advocate in any cause before either branch of the legislature; and, upon due proof thereof, such member shall forfeit his seat in the legislature.

ART. 8. The doors of the galleries of each house of the legislature shall be kept open to all persons who behave decently, except when the welfare of the state, in the opinion of either branch, shall require secrecy.

## HOUSE OF REPRESENTATIVES

ART. 9. There shall be, in the legislature of this state, a representation of the people, biennially elected, and founded upon principles of equality, and, in order that such representation may be as equal as circumstances will admit, every town, or place entitled to town privileges, and wards of cities having six hundred inhabitants by the last general census of the state, taken by authority of the United States or of this state, may elect one representative; if eighteen hundred such inhabitants, may elect two representatives; and so proceeding in that proportion, making twelve hundred such inhabitants the mean increasing number for any additional representative: *provided*, that no town shall be divided or the boundaries of the wards of any city so altered as to increase the number of representatives to which such town or city may be entitled by the next preceding census; and *provided further*, that, to those towns and cities which since the last census have been divided or had their boundaries or ward lines changed, the general court, in session next before these amendments shall take effect, shall equitably apportion representation in such manner that the number shall not be greater than it would have been had no such division or alteration been made.

ART. 10. Whenever any town, place, or city ward shall have less than six hundred such inhabitants, the general court shall authorize such town, place or ward to elect and send to the general court a representative such proportionate part of the time as the number of its inhabitants shall bear to six hundred; but the general court shall not authorize any such town, place or ward to elect and send such representative, except as herein provided.

ART. 11. The members of the house of representatives shall be chosen biennially, in the month of November, and shall be the second branch of the legislature.

ART. 12. All persons qualified to vote in the election of senators shall be entitled to vote, within the district where they dwell, in the choice of representatives.

ART. 13. Every member of the house of representatives shall be chosen by ballot, and, for two years, at least, next preceding his election, shall have been an inhabitant of this state; shall be, at the time of his election, an inhabitant of the town, parish, or place he may be chosen to represent; and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

ART. 14. The presiding officers of both houses of the legislature shall severally receive out of the state treasury as compensation in full for their services, for the term elected, the sum of two hundred and fifty dollars, and all other members thereof seasonably attending and not departing without license, the sum of two hundred dollars, exclusive of mileage: *provided, however*, that when a special session shall be called by the governor, such officers and members shall receive for attendance an additional compensation of three dollars per day for a period not exceeding fifteen days, and the usual mileage.

ART. 15. All intermediate vacancies in the house of representatives may be filled up from time to time in the same manner as biennial elections are made.

ART. 16. The house of representatives shall be the grand inquest of the state, and all impeachments made by them shall be heard and tried by the senate.

ART. 17. All money bills shall originate in the house of representatives, but the senate may propose or concur with amendments, as on other bills.

ART. 18. The house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

ART. 19. A majority of the members of the house of representatives shall be a quorum for doing business, but, when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

ART. 20. No member of the house of representatives or senate shall be arrested or held to bail on mesne process during his going to, returning from, or attendance upon, the court.

ART. 21. The house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house, and shall be judge of the returns, elections, and qualifications of its members, as pointed out in this constitution. They shall have authority to punish by imprisonment every person who shall be guilty of disrespect to the house, in its presence, by any disorderly and contemptuous behavior, or by threatening or ill treating any of its members, or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during his attendance at any session; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house; in assaulting any witness or other person ordered to attend by, and during his attendance of, the house, or in rescuing any person arrested by order of the house, knowing them to be such.

ART. 22. The senate, governor, and council shall have the same powers in like cases, *provided*, that no imprisonment by either for any offense exceed ten days.

ART. 23. The journals of the proceedings and all public acts of both houses of the legislature shall be printed and published immediately after every adjournment or prorogation, and, upon motion made by any one member, the yeas and nays upon any question shall be entered on the journal, and any member of the senate or house of representatives shall have a right, on motion made at the time for that purpose, to have his protest or dissent, with the reasons, against any vote, resolve, or bill passed, entered on the journal.

#### SENATE

ART. 24. The senate shall consist of twenty-four members, who shall hold their office for two years from the first Wednesday of January next ensuing their election.

ART. 25. And, that the state may be equally represented in the senate, the legislature shall, from time to time, divide the state into twenty-four districts, as nearly equal as may be without dividing towns and unincorporated places; and, in making this division, they shall govern themselves by the proportion of direct taxes paid by the

said districts, and timely make known to the inhabitants of the state the limits of each district.

ART. 26. The free holders and other inhabitants of each district, qualified as in this constitution is provided, shall, biennially give in their votes for a senator at some meeting holden in the month of November.

ART. 27. The senate shall be the first branch of the legislature, and the senators shall be chosen in the following manner, viz.: every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this state, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the biennial or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden biennially, forever, in the month of November, to vote, in the town or parish wherein he dwells, for the senator in the district whereof he is a member.

ART. 28. *Provided, nevertheless,* that no person shall be capable of being elected a senator who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election; and, at the time thereof, he shall be an inhabitant of the district for which he shall be chosen.

ART. 29. And every person qualified as the constitution provides shall be considered an inhabitant, for the purpose of electing and being elected into any office or place within this state, in the town, parish, and plantation where he dwelleth and hath his home.

ART. 30. And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators, in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places, for that purpose, shall be holden biennially in the month of November, at such places respectively therein as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution.

ART. 31. The meetings for the choice of governor, council, and senators shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend), in open meeting, receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen and of the town clerk in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for and the number of votes for each person; and the town clerk shall make a fair record of the same, at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof; and the said town clerk shall cause such attested copy to be delivered to the sheriff of the county in which said town or parish shall lie thirty days, at least, before the first Wednesday of January, or to the



secretary of the state at least twenty days before the said first Wednesday of January; and the sheriff of each county or his deputy shall deliver all such certificates by him received into the secretary's office at least twenty days before the first Wednesday of January.

ART. 32. And, that there may be a due meeting of senators on the first Wednesday of January, biennially, the governor and a majority of the council for the time being shall, as soon as may be, examine the returned copies of such records, and, fourteen days before the first Wednesday of January, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes to attend and take their seats on that day: *provided, nevertheless*, that, for the first year, the said returned copies shall be examined by the president and a majority of the council then in office; and the said president shall, in like manner, notify the persons elected to attend and take their seats accordingly.

ART. 33. And in case there shall not appear to be a senator elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: the members of the house of representatives and such senators as shall be declared elected shall take the names of the two persons having the highest number of votes in the district, and out of them shall elect, by joint ballot, the senator wanted for such district; and, in this manner, all such vacancies shall be filled up in every district of the state; all vacancies in the senate arising by death, removal out of the state, or otherwise, except from failure to elect, shall be filled by a new election by the people of the district, upon the requisition of the governor, as soon as may be after such vacancies shall happen.

ART. 34. The senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution.

ART. 35. The senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time: *provided, nevertheless*, that, whenever they shall sit on the trial of any impeachment, they may adjourn to such time and place as they may think proper, although the legislature be not assembled on such day or at such place.

ART. 36. The senate shall appoint their president and other officers, and determine their own rules of proceedings. And not less than thirteen members of the senate shall make a quorum for doing business; and, when less than sixteen senators shall be present, the assent of ten, at least, shall be necessary to render their acts and proceedings valid.

ART. 37. The senate shall be a court, with full power and authority to hear, try, and determine all impeachments made by the house of representatives against any officer or officers of the state, for bribery, corruption, malpractice, or maladministration in office, with full power to issue summons or compulsory process for convening witnesses before them; but, previous to the trial of any such impeachment, the members of the senate shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence. And every officer impeached for bribery, corruption, malpractice, or maladministration in office shall be served with an attested copy of the impeachment and order of senate thereon, with

such citation as the senate may direct, setting forth the time and place of their sitting to try the impeachment; which service shall be made by the sheriff or such other sworn officer as the senate may appoint, at least fourteen days previous to the time of trial; and, such citation being duly served and returned, the senate may proceed in the hearing of the impeachment, giving the person impeached, if he shall appear, full liberty of producing witnesses and proofs and of making his defense by himself and counsel; and may also, upon his refusing or neglecting to appear, hear the proofs in support of the impeachment, and render judgment thereon, his non-appearance notwithstanding; and such judgment shall have the same force and effect as if the person impeached had appeared and pleaded in the trial.

ART. 38. Their judgment, however, shall not extend further than removal from office, disqualification to hold or enjoy any place of honor, trust, or profit under this state; but the party so convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to the laws of the land.

ART. 39. Whenever the governor shall be impeached, the chief justice of the supreme judicial court shall, during the trial, preside in the senate, but have no vote therein.

#### EXECUTIVE POWER—GOVERNOR

ART. 40. There shall be a supreme executive magistrate, who shall be styled Governor of the State of New Hampshire, and whose title shall be *His Excellency*.

ART. 41. The governor shall be chosen biennially, in the month of November, and the votes for governor shall be received, sorted, counted, certified, and returned in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives on the first Wednesday of January, to be by them examined; and, in case of an election by a majority of votes through the state, the choice shall be by them declared and published; and the qualifications of electors of the governor shall be the same as those for senators; and, if no person shall have a majority of votes, the senate and house of representatives shall, by a joint ballot, elect one of the two persons having the highest number of votes, who shall be declared governor. And no person shall be eligible to this office unless, at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years.

ART. 42. In cases of disagreement between the two houses with regard to the time or place of adjournment or prorogation, the governor, with advice of council, shall have the right to adjourn or prorogue the general court, not exceeding ninety days at any one time, as he may determine the public good may require; and he shall dissolve the same seven days before the said first Wednesday of January. And, in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the health or lives of the members from their attendance, the governor may direct the session to be holden at some other, the most convenient, place within the state.

ART. 43. Every bill which shall have passed both houses of the general court shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with such objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

ART. 44. Every resolve shall be presented to the governor, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

ART. 45. All judicial officers, the attorney-general, coroners, and all officers of the navy and general and field officers of the militia, shall be nominated and appointed by the governor and council; and every such nomination shall be made at least three days prior to such appointment; and no appointment shall take place unless a majority of the council agree thereto.

ART. 46. The governor and council shall have a negative on each other, both in the nominations and appointments. Every nomination and appointment shall be signed by the governor and council, and every negative shall be also signed by the governor or council who made the same.

ART. 47. The captains and subalterns in the respective regiments shall be nominated and recommended by the field officers to the governor, who is to issue their commissions immediately on receipt of such recommendation; *provided*, that no person shall be so nominated and recommended until he shall have been examined and found duly qualified by an examining board appointed by the governor.

ART. 48. Whenever the chair of the governor shall become vacant, by reason of his death, absence from the state, or otherwise, the president of the senate shall, during such vacancy, have and exercise all the powers and authorities, which, by this constitution, the governor is vested with when personally present; but, when the president of the senate shall exercise the office of governor, he shall not hold his office in the senate. Whenever the chair both of the governor and of the president of the senate shall become vacant, by reason of their death, absence from the state, or otherwise, the speaker of the house shall, during such vacancies, have and exercise all the powers and authorities which, by this constitution, the governor is vested with when personally present; but when the speaker of the house shall exercise the office of governor, he shall not hold his office in the house.

ART. 49. The governor, with advice of council, shall have full power and authority, in recess of the general court, to prorogue the

same from time to time, not exceeding ninety days in any one recess of said court; and, during the sessions of said court, to adjourn or prorogue it to any time the two houses may desire; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the state should require the same.

ART. 50. The governor of this state, for the time being, shall be commander-in-chief of the army and navy and all the military forces of the state by sea and land; and shall have full power, by himself or by any chief commander or other officer or officers, from time to time to train, instruct, exercise, and govern the militia and navy; and for the special defense and safety of this state, to assemble in martial array and put in warlike posture the inhabitants thereof, and to lead and conduct them, and with them to encounter, repulse, repel, resist, and pursue by force of arms, as well by sea as by land, within and without the limits of this state; and also to kill, slay, destroy, if necessary, and conquer, by all fitting ways, enterprise, and means, all and every such person and persons as shall at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment or annoyance of this state; and to use and exercise over the army and navy and over the militia in actual service the law martial, in time of war, invasion, and also in rebellion declared by the legislature to exist, as occasion shall necessarily require; and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this state; and, in fine, the governor hereby is intrusted with all other powers incident to the office of captain-general and commander-in-chief and admiral, to be exercised agreeably to the rules and regulations of the constitution and laws of the land, *provided*, that the governor shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state or oblige them to march out of the limits of the same without their free and voluntary consent or the consent of the general court, nor grant commissions for exercising the law martial in any case without the advice and consent of the council.

ART. 51. The power of pardoning offenses, except such as persons may be convicted of before the senate, by impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offense or offenses intended to be pardoned.

ART. 52. No officer, duly commissioned to command in the militia, shall be removed from his office but by the address of both houses to the governor or by fair trial in court-martial pursuant to the laws of the state for the time being.

ART. 53. The commanding officers of the regiments shall appoint their adjutants and quartermasters; the brigadiers, their brigade-majors; the major-generals, their aids; the captains and subalterns, their non-commissioned officers.

ART. 54. The division of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall

be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

ART. 55. No moneys shall be issued out of the treasury of this state and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, by and with the advice and consent of the council, for the necessary support and defense of this state and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ART. 56. All public boards, the commissary-general, all superintending officers of public magazines and stores belonging to this state, and all commanding officers of forts and garrisons within the same shall, once in every three months, officially and without requisition, and at other times when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and all small arms with their accoutrements, and all other public property under their care respectively, distinguishing the quantity and kind of each as particularly as may be, together with the condition of such forts and garrisons. And the commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors adjacent.

ART. 57. The governor and council shall be compensated for their services, from time to time, by such grants as the general court shall think reasonable.

ART. 58. Permanent and honorable salaries shall be established by law for the justices of the superior court.

#### COUNCIL

ART. 59. There shall be biennially elected by ballot five councilors, for advising the governor in the executive part of government. The free holders and other inhabitants in each county, qualified to vote for senators, shall, some time in the month of November, give in their votes for one councilor, which votes shall be received, sorted, counted, certified, and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday of January.

ART. 60. And the person having a majority of votes in any county shall be considered as duly elected a councilor; but, if no person shall have a majority of votes in any county, the senate and house of representatives shall take the names of the two persons who have the highest number of votes in each county and not elected, and out of those two shall elect, by joint ballot, the councilor wanted for the county; and the qualifications for councilors shall be the same as for senator.

ART. 61. If any person thus chosen a councilor shall be elected governor or member of either branch of the legislature and shall accept the trust, or if any person elected a councilor shall refuse to accept the office, or in case of the death, resignation, or removal of any councilor out of the state, the governor may issue a precept for the election of a new councilor in that county where such vacancy



shall happen; and the choice shall be in the same manner as before directed; and the governor shall have full power and authority to convene the council, from time to time, at his discretion; and with them or the majority of them, may and shall, from time to time, hold a council for ordering and directing the affairs of the state, according to the laws of the land.

ART. 62. The members of the council may be impeached by the house and tried by the senate for bribery, corruption, malpractice, or maladministration.

ART. 63. The resolutions and advice of the council shall be recorded by the secretary in a register, and signed by all the members present agreeing thereto; and this record may be called for at any time by either house of the legislature; and any member of the council may enter his opinion contrary to the resolution of the majority, with the reasons for such opinion.

ART. 64. The legislature may, if the public good shall hereafter require it, divide the state into five districts, as nearly equal as may be, governing themselves by the number of ratable polls and proportion of public taxes, each district to elect a councilor; and, in case of such division, the manner of the choice shall be conformable to the present mode of election in counties.

ART. 65. And, whereas the elections appointed to be made by this constitution on the first Wednesday of January biennially, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same be completed. And the order of the elections shall be as follows: The vacancies in the senate, if any, shall be first filled up; the governor shall then be elected, provided there shall be no choice of him by the people; and afterwards, the two houses shall proceed to fill up the vacancy, if any, in the council

#### SECRETARY, TREASURER, COMMISSARY-GENERAL, ETC

ART. 66. The secretary, treasurer, and commissary-general shall be chosen by joint ballot of the senators and representatives, assembled in one room.

ART. 67. The records of the state shall be kept in the office of the secretary; and he shall attend the governor and council, the senate and representatives, in person or by deputy, as they may require.

ART. 68. The secretary of the state shall at all times have a deputy, to be by him appointed, for whose conduct in office he shall be responsible; and, in case of the death, removal, or inability of the secretary, his deputy shall exercise all the duties of the office of secretary of this state until another shall be appointed.

ART. 69. The secretary, before he enters upon the business of his office, shall give bond, with sufficient sureties, in a reasonable sum, for the use of the state, for the punctual performance of his trust.

#### COUNTY TREASURERS, ETC.

ART. 70. The county treasurers, registers of probate, solicitors, sheriffs, and registers of deeds shall be elected by the inhabitants of the several towns in the several counties in the state, according to the

method now practiced and the laws of the state; *provided, nevertheless*, the legislature shall have authority to alter the manner of certifying the votes and the mode of electing those officers, but not so as to deprive the people of the right they now have of electing them.

ART. 71. And the legislature, on the application of the major part of the inhabitants of any county, shall have authority to divide the same into two districts for registering deeds, if to them it shall appear necessary, each district to elect a register of deeds; and, before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond, with sufficient sureties, in a reasonable sum, for the use of the county, for the punctual performance of their respective trusts.

#### JUDICIARY POWER

ART. 72. The tenure that all commissioned officers shall have by law in their offices shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned, and sworn, shall hold their offices during good behavior, excepting those concerning whom there is a different provision made in this constitution; *provided, nevertheless*, the governor, with consent of council, may remove them upon the address of both houses of the legislature.

ART. 73. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law and upon solemn occasions.

ART. 74. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the state.

ART. 75. All causes of marriage, divorce, and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall by law make other provision.

ART. 76. The general court are empowered to give to justices of the peace jurisdiction in civil causes, when the damages demanded shall not exceed one hundred dollars and title of real estate is not concerned, but with right of appeal to either party to some other court.

ART. 77. No person shall hold the office of judge of any court, or judge of probate, or sheriff of any county, after he has attained the age of seventy years.

ART. 78. No judge of any court or justice of the peace shall act as attorney, or be of counsel to any party, or originate any civil suit, in matters which shall come or be brought before him as judge or justice of the peace.

ART. 79. All matters relating to the probate of wills and granting letters of administration shall be exercised by the judges of probate in such manner as the legislature have directed or may hereafter direct; and the judges of probate shall hold their courts at such place

or places, on such fixed days as the convenience of the people may require and the legislature from time to time appoint.

ART. 80. No judge or register of probate shall be of counsel, act as advocate, or receive any fees as advocate or counsel, in any probate business which is pending or may be brought into any court of probate in the county of which he is judge or register.

#### CLERKS OF COURTS

ART. 81. The judges of the courts (those of probate excepted) shall appoint their respective clerks, to hold their office during pleasure; and no such clerk shall act as an attorney or be of counsel in any cause in the court of which he is a clerk, nor shall he draw any writ originating a civil action.

#### ENCOURAGEMENT OF LITERATURE, ETC.

ART. 82. Knowledge and learning generally diffused through a community being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to promote this end, it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history, of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments, among the people; *provided, nevertheless*, that no money raised by taxation shall ever be granted or applied for the use of the schools or institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization, and provision should be made for the supervision and government thereof:—Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign and domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

OATHS AND SUBSCRIPTIONS.—EXCLUSION FROM OFFICES.—COMMISSIONS.—WRITS.—CONFIRMATION OF LAWS.—HABEAS CORPUS.—THE ENACTING STYLE.—CONTINUANCE OF OFFICERS.—PROVISION FOR A FUTURE REVISION OF THE CONSTITUTION.—ETC.

ART. 83. Any person chosen governor, councilor, senator, or representative, military or civil officer (town officers excepted), accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declarations, viz.:—

I, A B, do solemnly swear that I will bear faith and true allegiance to the state of New Hampshire and will support the constitution thereof. *So help me God.*

I, A B, do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my abilities, agreeably to the rules and regulations of this constitution and the laws of the state of New Hampshire. *So help me God.*

Any person having taken and subscribed the oath of allegiance, and the same being filed in the secretary's office, he shall not be obliged to take said oath again.

*Provided, always,* when any person chosen or appointed as aforesaid shall be of the denomination called Quakers, or shall be scrupulous of swearing and shall decline taking the said oaths, such person shall take and subscribe them, omitting the word "*swear*," and likewise the words "*So help me God*," subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

ART. 84. And the oaths or affirmations shall be taken and subscribed by the governor, before the president of the senate, in presence of both houses of the legislature; and by the senators and representatives first elected under this constitution, as altered and amended, before the president of the state and a majority of the council then in office, and forever afterward before the governor and council for the time being; and by all other officers, before such persons and in such manner as the legislature shall from time to time appoint.

ART. 85. All commissions shall be in the name of the state of New Hampshire, signed by the governor, and attested by the secretary or his deputy, and shall have the great seal of the state affixed thereto.

ART. 86. All writs issuing out of the clerk's office, in any of the courts of law, shall be in the name of the state of New Hampshire, shall be under the seal of the court whence they issue, and bear teste of the chief, first or senior justice of the court; but, when such justice shall be interested, then the writ shall bear teste of some other justice of the court, to which the same shall be returnable; and be signed by the clerk of such court.

ART. 87. All indictments, presentments, and information shall conclude, "*against the peace and dignity of the state.*"

ART. 88. The estate of such persons as may destroy their own lives shall not for that offense be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

ART. 89. All the laws which have heretofore been adopted, used, and approved in the province, colony, or state of New Hampshire, and usually practiced on in the courts of law, shall remain and be in full force until altered and repealed by the legislature, such parts thereof only excepted as are repugnant to the rights and liberties contained in this constitution; *provided*, that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

ART. 90. The privilege and benefit of the *habeas corpus* shall be enjoyed in this state in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature except upon the most urgent and pressing occasions, and for a time not exceeding three months.

ART. 91. The enacting style, in making and passing acts, statutes, and laws, shall be, *Be it enacted by the senate and house of representatives in general court convened*.

ART. 92. No governor or judge of the supreme judicial court shall hold any office or place under the authority of this state, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the state; nor shall they hold any place or office or receive any pension or salary from any other state, government, or power whatever.

ART. 93. No person shall be capable of exercising at the same time more than one of the following offices within this state, viz.: judge of probate, sheriff, register of deeds; and never more than two offices of profit, which may be held by appointment of the governor, or governor and council, or senate and house of representatives, or superior or inferior courts, military offices and offices of justices of the peace excepted.

ART. 94. No person holding the office of judge of any court (except special judges), secretary, treasurer of the state, attorney-general, commissary-general, military officers receiving pay from the continent or this state (excepting officers of the militia occasionally called forth on an emergency), register of deeds, sheriff, or officers of the customs, including naval officers, collectors of excise and state and continental taxes hereafter appointed, and not having settled their accounts with the respective officers with whom it is their duty to settle such accounts, members of congress, or any person holding any office under the United States, shall at the same time hold the office of governor, or have a seat in the senate or house of representatives or council; but his being chosen and appointed to and accepting the same shall operate as a resignation of their seat in the chair, senate, or house of representatives, or council, and the place so vacated shall be filled up. No member of the council shall have a seat in the senate or house of representatives.

ART. 95. No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who, in the due course of law, has been convicted of bribery or corruption in obtaining an election or appointment.

ART. 96. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce.



ART. 97. To the end that there may be no failure of justice or danger to the state by the alterations and amendments made in the constitution, the general court is hereby fully authorized and directed to fix the time when the alterations and amendments shall take effect, and make the necessary arrangements accordingly.

ART. 98. It shall be the duty of the selectmen and assessors of the several towns and places in this state, in warning the first annual meetings for the choice of senators, after the expiration of seven years from the adoption of this constitution as amended, to insert expressly in the warrant this purpose among the others for the meeting, to wit: to take the sense of the qualified voters on the subject of a revision of the constitution; and, the meeting being warned accordingly, and not otherwise, the moderator shall take the sense of the qualified voters present as to the necessity of a revision; and a return of the number of votes for and against such necessity shall be made by the clerks, sealed up and directed to the general court at their then next session; and if it shall appear to the general court by such return that the sense of the people of the state has been taken, and that, in the opinion of a majority of the qualified voters in the state present and voting at said meetings, there is a necessity for a revision of the constitution, it shall be the duty of the general court to call a convention for that purpose; otherwise the general court shall direct the sense of the people to be taken, and then proceed in the manner before mentioned; the delegates to be chosen in the same manner and proportioned as the representatives to the general court; *provided*, that no alterations shall be made in this constitution before the same shall be laid before the towns and unincorporated places and approved by two thirds of the qualified voters present and voting on the subject.

ART. 99. And the same method of taking the sense of the people as to a revision of the constitution, and calling a convention for that purpose, shall be observed afterward, at the expiration of every seven years.

ART. 100. This form of government shall be enrolled on parchment and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this state in all future editions thereof.

### A BIBLIOGRAPHICAL OUTLINE <sup>a</sup>

All the territory contained within the present boundaries of the State of New Hampshire lies between the 40th and 48th parallels of latitude. It was included in the limits which appear in the patent of James I. to the Council of Plymouth in the County of Devon of date Nov. 3, 1620, constituting them a corporation for the "Plantation ruling and governing" of this territory under the name of the Colony of New England. The Council of Plymouth in the County of Devon exercised its powers during a period of fifteen years and was dissolved in 1635. In the instrument which contained the speci-

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<sup>a</sup> Critical note by Hon. A. S. Batchellor, Editor of New Hampshire State Papers, on the constitutional basis of the successive governments of New Hampshire in the Colonial period.

fication of the powers of the Council the King recognized the rights of Englishmen in the following terms:—

“We do for us our heirs and successors declare by these presents that all and every the persons being our subjects, that which shall go and inhabit within the said Colony, and plantation, and every of their children and their posterity which shall happen to be born within the limits thereof, shall have and enjoy all liberties and franchises and Immunities of free denizens and Natural subjects, within any of our other Dominions to all Intents and purposes, as if they had been abiding and born within this our Kingdom of England, or any other of our Dominions”. Poore’s Charters and Constitutions Vol. I. Title—Massachusetts, p. 930; Id. 29 N. H. State Papers, p. 17.

The Powers of Government committed to this Council were in part described in the following extracts from the Charter:—

“We do by these presents give & grant full power & Authority unto the said Council, that the Said Council & their Successors, for the time being or the greatest part of them, shall & may from time to time nominate make Constitute & Confirm by such Name or Names stile or Stiles as to them shall seem good & like wise to revoke discharge Change & alter, as well all & singuler Governors officers & Ministers which hereafter shall be by them thought fit & needfull to be made or used as well to attend the buisness of the said Company here as for the Government of the Said Collony & plantations, and also to make ordain & Establish all manner of orders Laws Directions Instructions formes & Cerimonies of Government & Magistracy fit & Nessessary for & Concerning the Government of the said Collony & Plantation so always that the same be not Contrary to the Laws & Statutes of this our realm of England & the same at all times hereafter to abrogate revoke or Change not only within the presinct of said Collony but also upon the seas in going and Coming to & from the said Collony as they in their good discessions shall think to be fittest for the good of the adventurers & Inhabitants there, and we do further of our especial Grace Certain Knowledge & meer motion Grant declare & Ordain that such principle Government as from time to time shall be authorized and appointed in manner & form in these presents heretofore Expressed shall have full power & Authority to use & Exercise Marshall Laws & in Cases of Rebellion Insurrection & Mutany in as large and ample a manner as our Leiutenants in our Countys within our realm of England have or ought to have by force of their Commission of Lieutenancy and for as much as it shall be Necessary for all such our loving subjects as shall Inhabit within the said presincts of New England Aforesaid to determine to Live to geather in the fear and true worship of Almighty God, Christian peace & civil quietness, each with other, whereby every one may with More Safty pleasure & profitt Enjoy that whereunto they shall Obtain with Great Pain & peril We for us our heirs & successors are Likewise pleased & Contented and by these presents do give & Grant unto the said Council & their successors & to such Governors Officers & Minister as shall be by the said Council Constituted and appointed according to the Nature and Lymmits of ther offices & places respectively, that they shall & may from time to time forever hereafter, within the presincts of New England, or in the way by the seas

thither & from thence have full & absolute power & Authority to Correct, punish, pardon, Govern & rule all such the subjects of us our heirs & successors as shall from time to time adventure themselves in any voyage thither or that shall at any time hereafter Inhabit in the presincts and Territories of the Collony as aforesaid According to such Laws Orders & Ordainances directions & Instructions as by the said Council aforesaid shall be established in defect thereof, in Case of Necessity according to the good discessions of the said Governor and officers respectively as well in Cases of Capital & Criminal as Civil boath Marrine and others for always as that the said statutes ordinances & proceedings as near as conveniently may be agreeable to the Laws Statutes Government & pollicy of this our realm of England". Vol. 29 N. H. State Papers, p. 9.

The practical construction given the powers of government which purported to be vested in them by the Charter of 1620 involved the assumption that they might delegate the powers of Government to those who might be designated in secondary patents for the exercise of these functions; accordingly they accompanied several important grants of land with the delegation of powers of government, both embodied in the same instrument. Massachusetts Bay and Plymouth Colony both had such patents, but the promoters of the former took the wise precaution of procuring a Crown Charter. The validity of these delegations of powers of government to individuals, groups of persons, and colonial organizations by the Council of Plymouth was brought in question in the home government in 1677 and submitted to the Chief Justices. Their reply was in part as follows: "We" [the Lords Chief Justices of the Courts of King's Bench and Common Pleas] "did in the presence of said parties examine their several claims to the government, and the petitioners," [Mason and Gorges] "having waived the pretence of a grant of government from the Council of Plymouth wherein they were convinced by their own council that no such power or jurisdiction could be transferred or assigned by any colour of law." Report of the Lord's Chief Justices, and the King's confirmation thereof, July 20, 1677, 1 Bouton N. H. Province Papers p. 336; Farmer's Belknap, Vol. 1. App. p. 449.

In some instances nevertheless these delegated powers of government had been exercised as in Plymouth Colony while in other instances as in John Mason's grants covering the territory which is now known as New Hampshire no organized Colonial government resulted.

The somewhat mooted question whether, within the meaning of the rules laid down by Lord Coke in Calvin's Case that part of the grant to the Council of Plymouth which was known as New England was territory acquired by discovery and uninhabited or whether it was territory inhabited and acquired by conquest, by purchase, or by treaties, is one of much significance in the ascertainment of what laws were operative upon the inhabitants and from what authority they emanated. The people of Massachusetts and New Hampshire, in the time of their union, strenuously denied that the laws of England were in force over them *proprio vigore* under the rules in Calvin's Case. The same view at length had the indorsement of the Common Law Courts in England. Authorities collected in the argument of the Attorney General of New Hampshire in the case of the

Percy Sumner Club of New Jersey in the U. S. Circuit Court for the District of N. H. 1906, pp. 1-50; Blankard v. Galdy, 1693, 4 Mod. Reports, 222; Id. 2 Salkeld, 411; Smith v. Browne and Cooper, 1706, 2 Salkeld 666. (Opinions in both cases by Lord Chief Justice Holt); Blackstone's Commentaries, Introduction, Star paging 107, Cooley's Ed. At the page last cited Blackstone says: "Our American plantations are principally of this latter sort, being obtained in the last century either by right of conquest and driving out the natives (with what natural justice I shall not at present inquire), or by treaties. And therefore the common law of England, as such, has no allowance or authority there; they being no part of the mother country, but distinct, though dependent dominions. They are subject however to the control of the parliament; though (like Ireland, Man, and the rest,) not bound by any acts of parliament unless particularly named." Lord Mansfield endorsed the opinion of Blackstone on this subject as above stated. Cooley's Blackstone, 1899. Star paging 108, 4th Edition edited by J. D. Andrews, Note 4. See also opinions of Prof. Joel Parker, formerly Chief Justice of N. H., State v. Rollins, 8 N. H. 560., and in his address at Lowell Institute 1869 (Pub. Mass. Hist. Society Proceedings p. 385; Id. pamphlet ed. 31.) entitled "The First Charter and the Early Religious Legislation of Massachusetts." For a comparison and discussion of the two views above suggested as to the extension of the laws of England into these colonies by the immigration, see Sharswood's notes in his edition of Blackstone; 1 Sharswood's Blackstone, Ed. of 1880, p. 107 note 11; Johnson v. McIntosh, 8 Wheat, 543; Martin v. Waddell, 16 Peters, 367; Perkins v. Scott, 57 N. H. 79; Conn. River Lumber Co. v. Olcott Falls Co., 65 N. H.; Concord Co. v. Robertson 66 N. H. 1; State v. Saunders, 66 N. H. 71; 1 Kent's Commentaries, Barnes Ed. star paging 472; Cooley's Const. Lim. 22, 31; Franklin's Works, Spark's Ed. Vol. V. p. 271; Jefferson's Correspondence, Vol. 4, p. 178; Wilson's Works, Andrews' Ed. Int. XLIII. vol. 2, p. 532.

The question whether the Blackstonian theory of non-extension of the Common Law to the Colonies on the theory that they were acquired by conquest or treaty, or whether some other theory on the subject be adopted, must be resolved by an examination of the foregoing authorities and numerous others of similar purport.

The theory of the migration of the Common Law with the Colonists (based upon the assumption of a discovery of uninhabited country in contradistinction from acquisition by conquest from and treaty with the aboriginal inhabitants or from the Dutch and the colonists of other nations in possession) takes March 24, 1606 as the divisional date. So much of the statute law of England antedating this point of time adapted to Colonial conditions would be regarded as common law in the colonies; while English Statutes passed subsequent to that date would not apply to the colonies unless such a purpose was specifically mentioned. 1 Sharswood's Blackstone star page 107, 1880. On the same theory as the case is put by Judge Cooley "the Common Law as then existing in England was not suited to their condition and circumstances in the new country, and those particulars they omitted as it was put in practice by them." "The common law of England is not to be taken, in all respects, to be that of America. Our ancestors brought with them its general principles, and claimed it as their birthright; but they brought with them and



adopted only that portion which was applicable to their condition." Const. Lim. p. 31, and note 1 Story J. in *Van Ness v. Pacard* 2 Pet. 144. Franklin's opinion above cited is as follows: "They carried with them a right to such parts of laws of the land as they should judge advantageous or useful to them; a right to be free from those they thought hurtful, and a right to make such others as they should think necessary, not infringing the general rights of Englishmen, and such new laws they were to form as agreeable as might be to the laws of England." Franklin, Works by Sparks Vol. IV. p. 271.

It is only by recourse to the powers of government granted to the Council of Plymouth in the County of Devon, and by the ascertainment of what part of the laws of England if any were operative in the New England Colonies by reason of the immigration, *proprio vigore*, that the fundamental features of the colonial governments in the early periods of their inception and development can be determined.

#### THE FIRST PERIOD OF THE OCCUPANCY OF NEW HAMPSHIRE TERRITORY BY ENGLISHMEN

Between the date of the Charter of the Council of Plymouth in 1620 and the union of New Hampshire with Massachusetts late in 1641, several extensive grants of land, accompanied by a delegation of powers of government, were issued to Mason and Gorges or to Mason individually. The Council of Plymouth in the County of Devon without recognizing such limitations upon their right under their Charter to delegate powers of government as was declared and applied by the Chief Justice and the King in 1677, proceeded to the disposition of extensive parts of New England accompanying their patents with provisions enabling the grantees to exercise powers of government or requiring the assumption and exercise of such powers by them. Before the first settlement of New Hampshire (1623) at least two such grants covering the parts of what was later known as New Hampshire were made. The first was the province or territory of Mariana which included all that region lying between the Naumpeck River and the Merrimack extending back to the heads of those rivers and including adjacent islands to the sea. The establishment of a government was required of the proprietors and this feature of the grant was in terms as follows:

"And the said John Mason doth further covenant for him his heirs and assigns that he will establish such a Government in the said portions of lands granted unto him and the same will from time to time continue as shall be agreeable as near as conveniently may be to the Laws and Customs of the Realm of England, and if he shall be charged at any time to have neglected his duty therein that then he will reform the same according to the Directions of the President and Council." Grant of Mariana 29 N. II. State Papers, 22. Life of John Mason, Prince Soc. Pub. Tuttle & Dean. Monograph on the Mariana Patent by Chas. Levi Woodbury Id. p. 45.

The next grant in the order of time containing powers of government was that of the Province of Maine of date Aug. 10, 1622, to Ferdinando Gorges and John Mason. It extended from the Merrimack River northeasterly to the Sagadahock and included all the



territory extending back from the sea three score miles from the mouths of the rivers named. It embodied the same right or requirement for the exercise of powers of government by the proprietors that appears in the Grant of Mariana. 29 N. H. State Papers p. 23. Life of John Mason, Prince Soc. Pub. p. 177.

Territorially these conveyances included approximately the lower half or two thirds part of what is now New Hampshire. The so-called Masonian grants never included the northern part of the province. In 1629 Mason and Gorges made partition of the territory held by them in common, Gorges taking that lying easterly of the Pascatagua line and Mason the westerly part. In confirmation of this agreement the Council of Plymouth issued a patent to Gorges for his part and to Mason for his part. In this grant to Mason no part of his territory of Mariana appears to have been included.

The grant of powers of government was the same in this patent as in that of 1622. 29 N. H. State Papers p. 32; Poore's Charters and Constitutions. Vol. II. p. 1270.

"This tract of land was called NEW HAMPSHIRE; it comprehended the whole of Wheelwright's purchase; and unless Mason's intention was to frustrate his title, it is difficult to assign a reason for the procurement of this patent, as the same land, with much more, had been granted to Gorges and Mason jointly seven years before." Farmer's Belknap's Hist. of N. H. p. 8. With all respect for the learned author of the foregoing comment, the suggestion is ventured that the partition of the province held by them jointly between Mason and Gorges might very properly be ratified by the Council of Plymouth and perhaps this would be indispensable. It was at this time and by this document that the province first received the name which has ever since been retained.

The grant of Laconia which bore date the 17th of November 1629 has been associated to some extent with New Hampshire. The patent was to Mason and Gorges and gave them the right to select a thousand acres on the coast as an adjunct to the main grant the principal subject of which was the lake of the Iroquois, the regions about it, and other lands and waters supposed to be situated to the northwestward of New Hampshire. The patent contained the same delegation of powers of government to the grantees as appears in the Grants of Mariana and Maine in 1622, 29 N. H. State Papers, p. 33.

Two drafts of patents from the Council of Plymouth to John Mason of date April 22, 1635, are preserved. Each contains a description of the premises conveyed which cover identically or approximately both Mason's province of Mariana, and his province of New Hampshire, that is, all the territory from Naumkeag River to the Newichiwannock (Piscataqua). The clause requiring the exercise of the powers of government which appears in the five former patents to Mason and Mason and Gorges above-mentioned does not appear in the patents of 1635. One of them however contains the following: "—— with the power of judicature in all causes and matters whatsoever as well criminal capital and civil arising or which may hereafter arise within the limits bounds and precincts aforesaid to be exercised and executed according to the laws of England as near as can be by the said Capt. John Mason his heirs and assigns or his or their Deputies Lieutenants Judges Stewards

or officers thereunto by him or them assigned deputed or appointed from time to time." 29 N. H. State Papers, 65.

The Council also by the same instrument accord to the inhabitants the right of appeal to it from local judgments. Soon afterwards in the same year the Council of Plymouth surrendered its charter and its powers were dissolved. Some account of the circumstances surrounding this event is given by Mr. Belknap. *Hist. of N. H.* Farmer's Ed. p. 14-17.

The rights of Gorges in his plantation were further safeguarded by a crown charter granted in 1635. In recent years a copy of a similar document purporting to be a crown charter to Mason of date Aug. 19, 1635, has been discovered. Mr. Frank B. Sanborn in his *history of New Hampshire, Commonwealth Series*, p. 11, says this instrument never passed the seals. Note Farmer's Belknap, p. 14; letter Geo. Vaughan to Ambrose Gibbons, dated April 10, 1636. Farmer's Belknap, Appendix, p. 431. The powers of legislation and for the exercise of other functions of government which appear in what purports to be a copy of this commission printed perhaps for the first time in 29 N. H. State Papers p. 69 are very comprehensive. The paper bears date August 19, 1635. Mason the proprietor died in December 1635. He never visited his New England plantations. He never exercised any powers of government which may have been granted him either from the Council or the Crown, by formulating a constitution or plan in written form, by providing for a legislature, by causing any general civil administration of the colony to be undertaken, or by according the people of his province as an entirety any government as far as any record appears, except what might be exercised under temporary directions by business agents and superintendents in a desultory and unsystematic manner and without a written constitution or written commission. *Laws of N. H. 1679-1702. Introduction* p. XXVII. It is noteworthy that the *Cutt Commission of 1679*, granted by Charles II, contains a statement that the government of New Hampshire, as there limited and bounded "hath not yet been granted unto any person or persons whatsoever." 1 *Laws N. H. 1679-1702*, p. 2. As to the admiralty powers of John Mason, see *Hist. of N. H. by F. B. Sanborn, Commonwealth Series*, (1904), pp. 10, 11; also *life of Capt. John Mason by Tuttle & Dean*, p. 347; *Will of John Mason Id.* p. 397; 29 N. H. State Papers, p. 88.

CONSTITUTIONS ADOPTED BY THE INDIVIDUAL TOWNS AND LOCAL SELF GOVERNMENT UNDER THE NEW ENGLAND TOWN SYSTEM PRIOR TO 1641.

In the absence of a colonial government provided by the Crown, the Council of Plymouth, or John Mason, the proprietor, the three towns into which the people had grouped themselves for local civil administration and for the protection of persons and property (not including Hampton, then regarded as a Massachusetts town) acting separately adopted local constitutions which they termed combinations for self government. The text of the Portsmouth combination has been lost. That of Dover and that of Exeter have been preserved and printed in several publications. A monograph on these constitutions was published by Charles Wesley Tuttle, and appears in his

historical papers edited by Albert Harrison Hoyt. p. 329; Id., reprint, *Laws of N. H. 1679–1702*, Appendix C. p. 744. 17 N. H. State Papers p. 501. 1 Bouton N. H. State Papers 126, 131. "Hist. Mem. of Ancient Dover" by Alonzo H. Quint and others, Scales's Ed. 1900, p. 17, 19. Hist. of Exeter, C. H. Bell, 1888. p. 15. Adam's "Annals of Portsmouth" 1825, p. 28. The text of the Exeter Combination (1639) and that of the Hilton Patent or Dover Combination (1640) are given in the works above cited. Local self government was most securely entrenched in the civil constitutions and organizations of the individual towns. This is well illustrated in New Hampshire where in the absence of a colonial government prior to 1641, and upon the failure of the Andros colonial government in 1689, the municipal organizations met all the requirements of local government. 1 Dillon Municipal Corporations, Chap. II. p'g'h. 28, et seq.; "The Origin of Municipal Incorporation in England and in the United States", by Amasa M. Eaton, Am. Bar Assoc. Reports Vol. XXV., p. 292; "The Origin, Organization and Influence of the Towns of New England", by Joel Parker, Proceedings Mass. Hist. Soc. 1866–67; Id. XXV. N. H. State Papers, 751; XXIV. N. H. State Papers, Introduction, p. III.; Vol. 1, *Laws N. H. 1679–1702* p. 259; Id. Introduction, p. XXIX. Historical Papers by Charles Wesley Tuttle, edited by A. H. Hoyt; Appendix, p. 329–335.

THE GRANT OF A TERRITORY SOMEWHAT SIMILAR IN EXTENT TO MASON'S GRANT OF NEW HAMPSHIRE OF NOV. 7, 1629, BY AN INSTRUMENT OF DATE MAY 17, 1629 PURPORTING TO BE THE DEED OF THE PRINCIPAL INDIAN SACHEMS TO JOHN WHEELWRIGHT

From several points of view it is impossible to disregard this transaction, and the paper in which it is presented is the ascertainment of the fundamental principles of government in Colonial New Hampshire. If the document is genuine it is evidence of a recognition of the rights of property of the aboriginal occupants in the land. It would be considered in the nature of a treaty by which the rights which the colonists seek to obtain by peaceable means if practicable were assigned to them while it reserved to the natives the natural rights which they most regarded pertaining to the forests, rivers, and other waters. In 1707 this conveyance was put in evidence in behalf of the colonists as one of the grounds upon which they rested their right of soil in the lands of the lower part of the province in antagonism to the claim of Allen the successor to the Masonian title. 2 Bouton N. H. State Papers, 514–562, inc. Farmer's Belknap 163; The deed fulfilled its office in the ordinary way at this trial. It had been obtained from the York County Archives according to the representation of the proponents. Representations were made after a time to the Home Government denying the genuineness of the conveyance. It was defended by Cotton Mather, Gov. William Plumer, and many others. The most exhaustive attack upon its authenticity was made by Mr. Savage in connection with his edition of Winthrop's History. Its most elaborate defence emanated from Chas. H. Bell, subsequently Governor and United States Senator, constituting Chapter 2, p. 79–142 in his life of John Wheelwright, Prince Soc. Pub. 1876. The conveyance was the subject of an inferential endorsement by all the branches of the general assembly of the

province including Gov. Joseph Dudley in an address to the Crown, 3 Bouton N. H. State Papers, p. 354. The text of the instrument has been reproduced in 1 Bouton, N. H. Province Papers p. 56-60; Bell's "Life of John Wheelwright" cited *supra*, p. 143; 3 Kent's Commentaries, Barnes Ed. 1884, star paging 382-387; Revised Statutes of the U. S. 1878, Title XXVIII. Ch. 2, sec. 2079; Id. Ch. 3, sect. 2116; The title to entire townships was dependent on the ownership of Wheelwright's heirs as successors to the supposed rights emanating from the conveyance of the sachems. The disability of the tribes to make treaties with individuals, and the disability of the latter to acquire titles by private contract with Indians were inchoate elements in the public law and perhaps indifferently understood by the men influential in public and private affairs; Farmer's Belknap Ch. 5; Id., Ch. IX., p. 119.

**THE VOLUNTARY UNION OF MASSACHUSETTS BAY COLONY AND NEW HAMPSHIRE AND THE CONSEQUENT EXTENSION OF THE CHARTER OF 1629 MODIFIED BY THE NECESSITIES OF COLONIAL CONDITIONS OVER THE ENTIRE TERRITORY OF NEW HAMPSHIRE, 1641-1679**

The failure of the Crown to provide a Colonial Government for New Hampshire, which might be more accurately described as absolute neglect, compelled the people and towns of the province to act under the compulsions and sanctions of the law of necessity. The union on the part of New Hampshire was in no wise a submission to the exercise of any unfair influence or superior power on the part of Massachusetts. It was in no sense an encroachment or usurpation upon the part of the latter. Both parties had interests to be subserved by a political union which were doubtless effectual in its accomplishment. In the compact for this union both the proprietors of the Hilton and Pascataqua Patents, and the towns, as organized municipalities represented New Hampshire while the General Court was the competent Agent for the Bay Colony. 1 Laws N. H. 1679-1702 Introduction, p. XXX.-XXXII.; Mass. Colony Records, Vol. 1, p. 324-332; Id. 342, 343; Farmer's Belknap, Ch. II. p. 28. The people in both parts of the United Colonies in the thirty-eight years which intervened before the separation of New Hampshire from this government by Charles II. in 1679, had become homogeneous, and the Puritan party in New Hampshire was as strong and dominant in political affairs, if not as intense in its ecclesiastical orthodoxy, as it was in Massachusetts. New Hampshire reserved by the terms of union the recognition of the freemen already exercising that privilege in New Hampshire as duly entitled to it, the right to admit those not church members as freemen, its existing rights and privileges with reference to fisheries, and other existing rights and privileges were made permanent by sufficient guarantys. The towns, except Exeter, were to be represented in the General Court. Equal rights were to exist in all parts of the United Colony and Courts were to be provided for New Hampshire similar to those established in Massachusetts. Mass. Col. Records, Vol. 1, *passim*; Laws N. H. 1679-1702, Introduction, p. XXIX. The Charter of 1629, and the political form of government which had been evolved from it during this period, with the special reservations and concessions accorded New Hampshire, constituted the colonial organic law of

the latter. This Charter is printed in Poore's Charters and Constitutions, title Massachusetts, Vol. I. p. 932; "The Charter of King Charles the First (1629) by Charles Deane, constituting Ch. X. Vol. 1 Mem. Hist. of Boston, 1880; "The First Charter and the Early Religious Legislation of Massachusetts", lecture at Lowell Institute by Judge Joel Parker (1869) cited *supra*; for the text of the compact of union between Mass. Bay and N. H. (1641), see Mass. Colony Records, Vol. 1, pp. 324, 332, 342, 343; 1 Laws of N. H. 1679-1702, Introduction, pp. XXX.-XXXII.

This Charter was annulled by the Court of Chancery by the procurement of Archbishop Laud in 1635. It was objected that there was not sufficient notice to the Colony or sufficient appearance by it in Court to render the decree valid. 1 Memorial Hist. of Boston, Ch. X. p. 338 et seq. In 1678 the question was submitted to the Crown lawyers as to whether the decree on the quo warranto in 1635 was a valid abrogation of the Charter, and the opinion rendered was that the decree was not valid. 1 Mem. Hist. of Boston, Ch. X. p. 367. Copy of the original quo warranto, 2 Mass. Hist. Col. VIII. 97; Collection of Original Papers, Hutchinson, pp. 101-104; Argument of Atty. Gen'l., Case of Percy Summer Club, U. S. Cir. Ct. for N. H. p. 73, 78. Text of the Judgment against the Charter in 1684, in 4 Mass. Hist. Soc. Coll. 11 246-278. Effect of the repeal upon Existing Laws; Monograph by Emory Washburn, Mass. Hist. Soc. Proc. March, 1875, Vol. 13, p. 451.

THE DISSOLUTION OF THE UNION BY ORDER OF KING CHARLES II., AND THE  
ERECTION OF A SEPARATE PROVINCE GOVERNMENT FOR NEW HAMPSHIRE  
BY DECREES CONTAINED IN THE COMMISSION TO JOHN CUTT AS PRESI-  
DENT AND A COUNCIL SEPT. 18, 1679

This Government was established in the spring of 1680, but it was much against the will of the people, the great majority of whom preferred the permanent continuance of the union. Resolution expressing regret at the separation from Mass. Bay. 1 Laws N. H. 1679-1702, p. 41. The Commission providing for a General Assembly, the President and Council constituting one part, and an assembly of elected deputies (not burgesses) constituting the other part. Two causes moved in the dissolution of the union and the establishment of a separate province, one being the promotion of the interests involved in the Masonian title, and the other the policy in the Home Government and the desire of a small minority of royalists in the New England colonies to counteract and restrain the growing influence of the Puritan or Home Rule party. 1 Laws N. H. 1679-1702, 1; and *Id.* Appendix E; Farmer's Belknap, Ch. VII. p. 90; "The Establishment of the Royal Provincial Government of New Hampshire, 1680" by Charles Wesley Tuttle, 1 Proc. N. H. Hist. Soc., pp. 338-352; Note to case of Hutchinson v. Railroad Co. 73 N. H. 279. The text of the Commission is printed 1 Bouton N. H. Province Papers, p. 373; also 1 Laws N. H. 1679-1702, p. 2, Laws of the Province 1771, Ed. p. 1. This Commission was vacated in terms by the Commission of Lt. Gov. Cranfield dated May 9, 1682, and the laws passed under it were abrogated by the King the same year. Instructions to Lt.



Gov. Edward Cranfield of date April 29, 1682, article 26. Cranfield Commission 1 Laws N. H. 1679-1702, p. 56. Notwithstanding the positive repeal of the Cutt Commission by the provisions of the Cranfield Commission after the former had been in force but a little more than two years, it was held in increasing regard down to the time of the Revolution as the first constitution and as the real foundation of the organic law. Benning Wentworth, Governor of the Province, 6 Bouton N. H. Province Papers, 99, 125. John Wentworth Governor of the Province, 7 Bouton, N. H. Province Papers, 385. In the compilation of the Laws. 1771, the Cutt Commission is given prominence as the first document printed in the volume. *Thompson v. Bennett*, Smith's N. H. Reports, p. 387, *Treatise on Probate Law* by Jeremiah Smith, Smith's Reports, 503. The beginning of the Cutt Government indicates the time assigned by Judge Joel Parker for the adoption of the English Common Law in this province. *State v. Rollins* 8 N. H. 560. Whatever acceptance of the English law occurred at this time in the province, it was reluctant, cautious, and sparing, there being accepted all that would be in conflict with what is classified under the following titles or groups (1) Where the body of that law was not applicable to the government instituted here; (2) Where it was not applicable to the condition of the people here; (3) Where other provisions, different from the statute or common law of England had been made by local statutes; and (4) Where the English law had been altered here by local usage. (8 N. H. 561.) Elsewhere further important exceptions were specified. Act of Revolutionary Legislature 1777, Const. of N. H. Art. 89 (90). *State v. Rollins* 8 N. H. 561. 1 Laws N. H. 1679-1702. Appendix E. Historical Papers by Charles Wesley Tuttle edited by A. H. Hoyt. Article on "The Establishment of The Royal Provincial Government of New Hampshire 1680" p. 175.

#### THE CRANFIELD COMMISSION 1682-1686

The commission constituting Edward Cranfield Lieut. Governor, was dated May 9, 1682, but he did not assume his government under it until October 4 of the same year. He accepted from Mason an interest in his claim upon the lands in the Province. It was incumbent upon him to erect the courts and appoint the judges which would try the question of title between the claimant and the occupants. After a short experience with the Lieutenant-Governor, discovering his duplicity the people antagonized him in every possible way and by denying him a legislature and refusing him supplies, compelled him to abandon his government when he had essayed the administration but a little more than two years and a half. His Deputy Walter Barefoot succeeded him, but accomplished comparatively nothing in reconciling the people to this regime. This Government was superseded by that of Joseph Dudley and a Council, May 25, 1686, this being the prelude to the administration of Sir Edmund Andros in the establishment of the Dominion of New England as undertaken by James II. The Province Records were removed to Boston and became for the time being a part of the archives of the Dominion of New England. Soon after the reestab-

lishment of a separate Province Government for New Hampshire in 1692, the Cutt Commission, the Laws passed under it, the Cranfield Commission, the Laws passed under it, and what purported to be a copy of the Cranfield Instructions, consisting of six articles, appear in the handwriting of Secretary Thomas Davis. He was the incumbent of the office between 1692 and 1694. The original Cranfield Instructions now appear to have been a much more elaborate document, containing 39 articles. The opposition of the people at this time against the newly constituted Allen Government administered by John Usher, the son-in-law of the Governor who had acquired the Masonian title, was quite as effective, if not as violent, as it had been in the time of Cranfield. As the article in the Cranfield Instructions (No. 26) by which a repeal of the laws passed in the time of Cutt was pronounced by the King, and many other articles of the document were eliminated and those retained given a new arrangement as a result of the revision of that document, the fact of that repeal became obscured, and finally passed out of mind. There is no evidence that a copy of the complete text of the Cranfield Instructions has been extant in America since the termination of the Cranfield Government or the beginning of the Usher Administration under the Allen Commission. The full text of these Instructions was recently discovered in the Public Record Office and a transcript sent over for the state in April, 1906, note; *Hutchinson v. R. R. Co.*, 73 N. H. 279; *Farmer's Belknap*, Chap. VIII.; Frank B. Sanborn, *Hist. of N. H., Commonwealth Series*, page 91; Edward Gove's *Insurrection of 1683*, *Granite Monthly*, Vol. 10 p. 185.

I Bouton N. H. Province Papers, 433-590; Laws of N. H. 1679-1702, pp. 48-92 and Appendix F; Chalmer's *Political Annals of the Present United Colonies*, Vol. 1, p. 493, et passim; Randall Correspondence edited by Robert Noxon Toppan, passim; *The Puritan Commonwealth* by Peter Oliver; The Cranfield Commission is printed in I Bouton, *Prov. Papers*, 433, and in I. N. H. Laws, 1679-1702, p. 48.

**THE DOMINION OF NEW ENGLAND. PRELIMINARY COMMISSION AND ADMINISTRATION OF JOSEPH DUDLEY AND A COUNCIL OVER MAINE, NEW HAMPSHIRE, MASSACHUSETTS, AND THE NARRAGANSETT COUNTRY, MAY 25, TO DECEMBER 20, 1686.**

The Administration of the Dominion of New England by a Council under the Presidency of Joseph Dudley was preparatory to that which was to follow under the Commission and Administration of Sir Edmund Andros. The purpose of restraining a developing spirit of independence and local representative government was the principal one in view on the part of the Stuarts. No elective representation of the people was conceded. The Dudley Commission was invested with limited legislative powers. A fragment of the commission had been published in Bouton's *Province Papers*, Vol. I. p. 590. The full text is printed in 1 Laws N. H. 1679-1702, p. 94. It is the transcript of an ancient copy lately in the possession of Hon. Charles J. Hoadley, sometime Librarian of the State of Connecticut. Note, 1 Laws N. H. 1679-1702, p. 93.

THE ANDROS COMMISSION AND ADMINISTRATION, INCLUDING AT THE OUT-SET MAINE, NEW HAMPSHIRE, MASSACHUSETTS BAY, NEW PLYMOUTH, AND THE NARRAGANSETT COUNTRY, WITH THE ADDITION OF RHODE ISLAND IN DECEMBER, 1686, CONNECTICUT IN OCTOBER, 1687, AND NEW YORK AND EAST AND WEST JERSEY IN 1688 WITH THE ISLANDS AND OTHER TERRITORIES APPURTENANT; DECEMBER 20, 1686, TO APRIL 18, 1689

The Government of the Council of which Joseph Dudley was president being only a prelude to that of Sir Edmund Andros, was taken up by the latter and the preparatory experiment succeeded by what was intended to be a permanency without friction or hiatus. Sir Edmund Andros and his Council were empowered by their Commission to pass laws, establish Courts, and, subject only to the restrictions of the commission and instructions, to provide for the exercise of all the functions of government, executive and judicial, as well as legislative. The principle of popular representation in the legislative body, contrary to the advice of the Dudley Council, was excluded from this plan of government. The first commission of Sir Edmund Andros was dated June 3, 1686. A note to *New Hampshire Laws 1679-1702* p. 145 contains the following bibliographical statement:— "An ancient copy of the first commission is preserved in the archives of the state of Massachusetts. This has been printed in the third series, vol. 7, *Collections of the Mass. Historical Society* pp. 139-149. The manuscript copy is now partially illegible. It has been used, however, for these pages, defective passages being indicated by brackets and restoration being made from the *Mass. Hist. Society's* imprint. The copy of the Commission in *N. H. Province Papers*, Vol. 2, pp. 1-10, is, according to the editor's note (p. 1), from a manuscript copy in the office of the N. H. secretary of state. Another imprint, probably from the same type, is found in *N. H. Historical Society Collections*, vol. 8, pp. 268-278. The New Hampshire manuscript copy cannot now be found. The imprint from it in *N. H. Province Papers*, Vol. 2, p. 1-10, has been compared by Mr. B. F. Stevens with the copy in the English archives, preserved in the Public Record office in London, and the few differences in phraseology by him discovered noted and due corrections made. This appears in the volume used for the purpose by Mr. Stevens, and which is now in the custody of the New Hampshire Historical Society at Concord, N. H." See *Mass. Archives*, Vol. 126, pp. 7-16. The copy of the first body of instructions which is complete from the *English Archives Colonial Entry Book*, vol. 61, p. 283, is printed in 1 *Laws N. H. 1679-1702*, p. 155. The additional instructions which followed are printed in the same volume as far as they could be obtained. The second commission drawn with reference to the enlargement of his jurisdiction and with reference to other considerations suggested by the progress of events was of date April 7, 1688. It is reprinted in 1 *Laws N. H. 1679-1702*, p. 226, the copy being the same as that in *Documents Relating to the Colonial History of the State of New York*, vol. 3, pp. 537-542. And in the Public Record office in London, *New England*, vol. XXXIII, p. 381. The instructions which accompanied the second commission were dated April 16, 1688.

They are cited in the English Archives as follows:— *New England*, Vol. XXXIII., p. 392. They have been printed in the *Documents Relating to the Colonial History of the State of New York*, Vol. III. pp. 543–549, and in *1 Laws N. H. 1679–1702*, p. 234. The volume last cited is the only publication which contains the Dudley Commission and the orders enacted under it, the first Andros Commission, the instructions under it, and the acts passed under the authority of that commission, the second commission and the instructions accompanying it. It appears that Mr. Palfrey was not aware that the Dudley Commission was extant. Palfrey, *Hist. of New Eng.* vol. 3, p. 485, N. 4; *1 Laws N. H. 1679–1702*, p. 145. It is not impossible that the first series of Andros instructions, those of 1686, appeared for the first time in an American publication in *1 Laws N. H. 1679–1702*, pp. 155, above cited. This government came to an end by reason of a colonial uprising against it April 18, 1689 in the first war of the reign of William and Mary. Editor's notes, *1 Laws N. H. 1679–1702*, pp. 92–267, *passim*. Many of the authorities relating to this period are cited in these notes. One of the most important of the recent additions to them is the *Correspondence of Edward Randolph*, edited by Robert Noxon Toppan, 1898. The Admiralty Commission of Sir Edmund Andros has been reconstructed from documents in the public record office in London, translated from the law Latin and printed in *1 Laws N. H. 1679–1702*, Appendix H. II. p. 830.

NEW HAMPSHIRE WITHOUT A COLONIAL GOVERNMENT APRIL 18, 1689 TO  
FEBRUARY 20, 1689–90

This was a period in which New Hampshire was left by the course of external events without a colonial government. None was provided by the home government and, owing to a division of sentiment in Hampton, the plan formulated and proposed in the province was not adopted and put in operation. The draft of this proposed form of government has been recovered in recent years. It is important as indicating what views were entertained by the people as to what the organic law should be. This document appears accompanied by a monograph by Charles Wesley Tuttle in his *Historical Papers*, Edited by Hoyt, 1889, pp. 197–214. It is reprinted with notes, *1 Laws N. H. 1679–1702*, p. 260. See also "Unsettled State of the Province", by Samuel Dana Bell, *8 Collections New Hampshire Historical Society*, p. 396.

THE SECOND UNION OF MASSACHUSETTS AND NEW HAMPSHIRE, 1690–1692

Accustomed as both colonies had been to government under the union which had continued from 1641 to 1679, and profoundly dissatisfied as they were with their experience with the other governments which had been imposed upon them since 1682, the reestablishment of the union was not only reasonable and logical, but was adopted with alacrity as soon as circumstances permitted. A formal avowal of the restoration of the charter of 1629 and the form of government that had grown out of it was deemed impolitic. The methods of government however that were adopted and exercised in the period of this second union appear by the record to be essentially those that were in conformity with the former constitution. It was ordered

- by the General Court that the laws in force before the inauguration of the Dudley Administration in 1686 should be deemed to be the laws of the existing government. The assumption therefore is entirely permissible that the organic law for the United Colonies in the period between February 20, 1690 and the spring of 1692 was the same as that upon which the government in the time of the first union was based. Charter of Mass. Bay Colony, 1629, 1, Poore's Constitutions and Charters, p. 932; 1 Laws N. H. 1679-1702, pp. 267-499.

THE COMMISSION OF SAMUEL ALLEN, GOVERNOR, INCLUDING IN THE SAME DOCUMENT THAT OF JOHN USHER AS LT. GOVERNOR, 1692-1699

By the commission of Samuel Allen, dated March 1, 1691-2, and the instructions accompanying that commission, the province of New Hampshire was established as a separate government. A great majority of the people of each province were very desirous of a continuance of the union of Massachusetts and New Hampshire. The Masonian interest however had passed to the proprietorship of Samuel Allen, a London merchant. His influence was sufficiently potent to prevent the incorporation of the two colonies in one government, and to compass the appointment of himself as Governor and his son-in-law as Lt. Governor of New Hampshire. A stormy administration ensued, and, although the Allen interest controlled the Courts and the Council, the home rule party by the consistent opposition of the Assembly and by influences brought to bear in the home government by the colonial agents, procured the appointment of a Lt. Governor in their own interest in the place of Usher, and so far put the Allen schemes under the ban that they were never dominant in the province after the expiration of Allen's term in 1699. The Earl of Bellomont's opinion of the Allen party is vigorously stated in his correspondence. Note, 1 Laws N. H. 1679-1702, p. 611. For a discussion of the hardship and injustice of a separation of New Hampshire from Massachusetts at this time, and the imposition of the burdens of a province government upon a people with such paucity of numbers and resources, see Doyle's English Colonies in America, Vol. II. p. 329. This government terminated July 31, 1699. The commission and instructions of Samuel Allen are printed in 2 Bouton's N. H. Province Papers, p. 57; 1 Laws N. H. 1679-1702, p. 501. Corrections of the text are made from the copy of the commission in the public record office in London. 3 Province Papers, corrected ed., U. S. Historical Society.

THE COMMISSION AND ADMINISTRATION OF RICHARD EARL OF BELLOMONT AS GOVERNOR OF NEW HAMPSHIRE, WILLIAM PARTRIDGE BEING LT. GOVERNOR AND ADMINISTERING THE GOVERNMENT AFTER THE DEATH OF THE GOVERNOR

An early termination of the Allen Government in this province was foreshadowed by the appointment of William Partridge of the Anti-Masonian-Allen party as Lt. Governor by the chief justices in the absence of the king on the continent by a commission dated June 26, 1696, and by the commission of Richard, Earl of Bellomont, to be Governor which occurred June 18, 1697. The Governor did not come into the province and assume the government here until July 31, 1699



and remained only eighteen days. He never returned. His death occurred March 5, 1701-2. Mr. Partridge administered the government from the time of the governor's departure from the province in August, 1699, until the assumption of government by Joseph Dudley under his own commission July 13, 1702. The Earl of Bellomont also had commissions for the government of other colonies including Massachusetts. Beginning with the Earl of Bellomont the same governor was appointed for New Hampshire and Massachusetts by the successive commissions until 1741. Although an appointment for Mr. Usher as Lt. Governor to succeed Mr. Partridge in the term of Gov. Dudley was procured by the influence of the representatives of the Allen title, that party appears to have gradually lost much of its influence, and it was never again in control of the governorship of the province. Indeed Lt. Governor Usher was restrained by the terms of his commission from further meddling with this business. 1 Laws N. H. 1679-1702, pp. 607-708, *passim*. The New Hampshire Commission of Gov. Bellomont is printed in 2 Bouton N. H. Province Papers, p. 305. A manuscript copy is in the state archives. The copy of the instructions in the public record office in London is designated as "New England, vol. 36, p. 286." The Commission is also printed in 1 Laws N. H. 1679-1702, p. 612. The Instructions are printed in the same volume p. 621, a transcript having been procured from London for the purpose. The Commission of William Partridge to be Lt. Governor was preserved in the files of the province and state. It is printed in 2 Bouton, N. H. Province Papers, p. 259, and in 1 Laws N. H. 1679-1702, p. 515.

#### THE COMMISSION AND ADMINISTRATION OF JOSEPH DUDLEY, 1702-1716

The Commission of Joseph Dudley to be Governor of New Hampshire was dated April 1, 1702, and he assumed office in the province July 13, 1702. The commission of his successor Elizeus Burges was dated Feby. 8th, 1714-15 but Col. Burges never came to his governments in New England. His relinquishment of these offices was procured by Jeremiah Dummer and Jonathan Belcher for the consideration of one thousand pounds sterling. The last appearance of Governor Dudley in the Council or with the Assembly of New Hampshire was the 27th of April, 1715. Upon the resignation of Col. Burges, Col. Samuel Shute was appointed governor over New Hampshire and Massachusetts but did not assume office until Oct. 17, 1716. John Usher was recommissioned as Lieut. Governor of the province June 10th, 1703. His successor George Vaughan was appointed and assumed the office October 13, 1715. Usher gave way reluctantly but not with such vigorous resistance as he had displayed in the former administration when superseded by Partridge. Governor Dudley's administration in New Hampshire was successful and satisfactory. He was in sympathy with the people, as was Bellomont, in their contest against the claims of the Allens. A permanent salary was provided for him according to the requirements of the Queen's Instructions. His commission is printed in 2 Bouton's N. H. Province Papers, pp. 366-375. There is also an ancient manuscript copy of his commission and instructions in the files of the secretary of state at Concord. The second commission of John Usher as Lieut. Governor is printed in 2 Bouton N. H. Prov. Papers, 406. A copy is on

file in the office of the secretary of state at Concord. The commission of George Vaughan as Lieut. Gov. has not been printed. A copy is on file in the office of the secretary of state at Concord. Consult Farmer's Belknap Ch. XI. and XII.

**COMMISSION OF ELIZEUS BURGESS, 1715**

Col. Elizeus Burges was appointed governor of the province February 8, 1715, but resigned the office the same year for a consideration, as already stated, without coming to New England. A copy of his commission and instructions is in the files of the secretary of state at Concord but they have never been printed.

**COMMISSION AND ADMINISTRATION OF SAMUEL SHUTE, 1716-1728**

Governor Shute's commission was dated May 10, 1716. He assumed office in New Hampshire October 17, the same year. His personal administration continued until June 1, 1723, when he returned to England, never afterwards coming back to his governments in New England. He had no successor in the Governorship until Governor William Burnet, who was appointed in the spring of 1728, assumed the office in the latter part of the same year. George Vaughan was Lieut. Governor in the first part of Gov. Shute's administration. John Wentworth was appointed Lieut. Governor September 12th, 1717 and assumed office Dec. 7th 1717. He was the sole administrator from the departure of Governor Shute for home in 1723 till the coming of Governor Burnet into the Province late in 1728. The commission and instructions of Governor Shute are on file in mss. in the office of the Secretary of State at Concord. The commission of Lieut. Governor Wentworth is also on file, and it has been printed in 2 Bouton's N. H. Province Papers 712. Consult Farmer's Belknap Ch. XIII. and XIV. In this administration a permanent constitutional change was effected by an act of the Gen'l Assembly confirmed by the home government. This was the provision for the continuance of each General Assembly for a term of three years. There was no change in this system until the end of the province government. Farmer's Belknap, p. 221.

**THE COMMISSION AND ADMINISTRATION OF WILLIAM BURNET, 1728, 1729**

The Commission of Governor Burnet is dated 1728. He died at Cambridge Massachusetts Sept. 7, 1729. His commission and instructions for New Hampshire are on file at the office of the Secretary of State at Concord. On the 24th of April, 1728, the announcement of a new commission to Lieut. Governor Wentworth was made in the House of Representatives. The Commission and instructions of Governor Burnet have not been printed. The first Commission of Lt. Governor Wentworth is printed as above stated; the second is not. Consult Farmer's Belknap. Ch. XV.

**THE COMMISSION AND ADMINISTRATION OF JONATHAN BELCHER,  
1729-1741**

The Commission of Jonathan Belcher as Governor for New Hampshire was dated December 11, 1729. He assumed office August 26,

1730. He was the last incumbent of both the Governorship of New Hampshire and that of Massachusetts. He was succeeded in New Hampshire by Benning Wentworth who assumed office Dec. 12, 1741. John Wentworth continued in office as Lieut. Gov. in the first part of this administration. He was succeeded by David Dunbar whose commission was dated \_\_\_\_\_ and who assumed office \_\_\_\_\_. He appears to have continued in commission during Governor Belcher's term of office. His relations with the Governor were such however that he was permitted little opportunity to act officially in the latter's stead. The Commission and instructions of Governor Belcher are on file in the office of the Secretary of State at Concord, but they have not been printed. The Commission of Lieut. Gov. Dunbar is also on file in the Secretary's office but it has never been printed. Consult Farmer's Belknap, Ch. XVI, XVII, and XVIII. In this administration there were serious differences between the Governor and a part of his Council involving among other things his prerogative as to suspension of councillors from office. There was such a serious breach between him and the House of Representatives also that the business of legislation was suspended for long periods. The House practically assumed the exercise of functions of government irrespective of the concurrence of the Governor and Council especially with reference to subjects related to the boundary line controversy. It is not impossible that this attitude of the House was viewed with a degree of complacency in the home government if it did not receive active encouragement from that source. The Governor also made some progress in this period in ascertaining the legal rights and relations of the Lieut. Governor in respect to the assumption of powers of government by him when the Governor was not personally present in the province. Either by express instructions from the home government or otherwise the Governor's contention seems to have been successful.

THE COMMISSION AND ADMINISTRATION OF BENNING WENTWORTH,  
1741-1767

Benning Wentworth was commissioned June 4, 1741, and assumed office December 13, 1741. Subsequent to the Administration of Samuel Allen, which terminated in 1699, this was the first Commission for the Governorship of New Hampshire issued to one who was not to be Governor of Massachusetts also. He was a son of John Wentworth, the former Lieut. Gov., and was succeeded by his nephew John Wentworth who was commissioned August 11, 1766, and assumed office July 30, 1767. John Temple was appointed Lieut. Gov. in the time of Benning Wentworth's incumbency of the Governorship. Benning Wentworth's commission and instructions are on file in the office of the Secretary of State at Concord. They have never been printed. Consult Farmer's Belknap Ch. XIX.-XXIII. inc. A long and determined contest took place between the Governor and his Council on the one part and the Assembly on the other over two Constitutional questions, the first being whether it was within the Governor's prerogative to veto the election of a speaker by the House of Representatives, and the second being whether it was the prerogative of the Governor or the General Assembly to authorize

newly constituted constituencies to send representatives. This conflict prevented the enactment of any legislation during the entire term of one General Assembly. The next General Assembly did not raise the issue over the Governor's warrants to the new constituencies in question for the election of representatives, and the Governor did not assert the prerogative that he claimed as to the rejection of a speaker chosen by the House. The Governor procured additional instructions from the home government but while he seems to have sustained his position to a certain extent the points in issue were not definitely determined. Farmer's Belknap, Chap. XXI.

THE COMMISSION AND ADMINISTRATION OF JOHN WENTWORTH, 1767-1775

John Wentworth's commission as Governor of New Hampshire was dated August 11, 1766. He assumed office July 30, 1767. He was the last royal Governor for the province. His administration ended with his departure on the English warship Scarborough from Portsmouth August 24, 1775. His commission and instructions are on file in the office of the Secretary of State at Concord. His commission as Governor is printed in the edition of the province laws of 1771 (second paper in the book) and his commission as Admiral appears in the same volume (third paper in the book.) Consult Farmer's Belknap, Ch. XXIV.

Near the close of his administration the right of the Governor to empower new constituencies to elect representatives to the General Assembly was brought in issue but for obvious reasons it was not possible for him to contest the issue with that persistence which characterized the attitude of Benning Wentworth on the same subject. Farmer's Belknap, p. 357.

The commission and instructions of John Wentworth complete a series of documents which contain the written constitutions accorded to this province by the Crown from its organization under John Cutt in 1680 to 1775. Apart from the exceptional conditions which existed between the termination of the Cranfield government in 1686 and the restoration of the separate province government in 1692 the development of what may be considered as the organic law of the province proceeded on natural and logical lines from the beginning to the end. The sequence of commissions and instructions which embodied this fundamental law of course in one sense lacked the element of permanency. Yet the modifications of the system were for the most part neither violent nor radical. They would be regarded in the retrospect as such as the changing conditions and necessities of the people and province would make necessary. Beyond this, however, was the ever present supervisory authority of the home government with its own policies interests and purposes impressed upon the substance of the commissions and instructions as they were promulgated from time to time during this period of almost a century in the constitutional development of the province.









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